



J. Kay.

THOMAS. MUIR ESQ.<sup>R</sup> YOUNGER  
of  
Huntershill

Published as the Act Directs by F. Robertson 1793

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THE  
T R I A L

OF

T H O M A S M U I R, Esq;

YOUNGER, OF HUNTERSHILL.

THE Members of the Court of Justiciary assembled precisely at ten o'clock in the forenoon. Mr. Muir, who had obtained his liberation upon bail, soon afterwards appeared, and placed himself at the bar.

His Majesty's Advocate, for his Majesty's interest, was then in the usual form, called against the Pannel. Mr. Muir was desired by the Lord Justice Clerk to listen to the Indictment against him, which was to be read immediately by the Clerk of the Court. Of that Indictment the following is a true copy.

"GEORGE &c. WHEREAS it is humbly meant and complained to us by our right trusty ROBERT DUNDAS, Esq. of Arncliffe, our Advocate for our interest, upon THOMAS MUIR, younger, of Huntershill, THAT, by the laws of this and every other well governed realm, the wickedly

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and feloniously exciting, by means of **SEDITIONOUS SPEECHES** and **HARANGUES**, a spirit of disloyalty and disaffection to the King and the Established Government; **MORE ESPECIALLY**, when such speeches and harangues are addressed to Meetings or Convocations of Persons, brought together by no lawful authority, and uttered by one who is the chief Instrument of calling together such Meetings; **AS ALSO**, the wickedly and feloniously **ADVISING** and **EXHORTING** persons to purchase and peruse seditious and wicked publications and writings, calculated to produce a spirit of disloyalty and disaffection to the King and Government; **AS ALSO**, the wickedly and feloniously **DISTRIBUTING** or **CIRCULATING** any seditious writing or publication of the tendency aforesaid, or the **CAUSING** distribute or circulate any such seditious writing or publication: **AS ALSO**, the wickedly and feloniously **PRODUCING** and **READING ALOUD**, in a public meeting or convocation of persons, a seditious and inflammatory writing, tending to produce in the minds of the people a spirit of insurrection and of opposition to the Established Government: **AND**, the **PUBLICLY APPROVING** of, and **RECOMMENDING**, in said meeting, such seditious and inflammatory writing, are all and each, or one or other of them, crimes of an heinous nature, dangerous to the public peace, and severely punishable: **YET TRUE IT IS, AND OF VERITY**, that the said Thomas Muir is guilty actor, art and part, of all and each, or one or other, of the said crimes, aggravated as aforesaid: **IN SO FAR AS** on the 3d day of November 1792, or on one or other, of the days of that month, or of October immediately preceding, or of December immediately following, the said Thomas Muir having been present at a meeting in the town of Kirkintilloch, parish of Kirkintilloch, and county of Dunbarton, denominated, 'A Society for Reform,' or bearing some such name; and also, having sometime during the course of the said month, of November aforesaid, been present at another meeting at Miltoun, parish of

Campsie, and county of Stirling, which meeting was also denominated, 'A Society for Reform,' or bore some such name, (and both of which societies above-mentioned the said Thomas Muir was the chief mean of instituting and forming); he did, at times and places foresaid, with wicked and seditious intention, address and harangue the said meetings; in which speeches and harangues, the said Thomas Muir did seditiously endeavour to represent the Government of this country as oppressive and tyrannical, and the Legislative Body of the state as venal and corrupt, particularly by instituting a comparison between the pretended existing Government of France and the Constitution of Great Britain, with respect to the expences necessary for carrying on the functions of Government; he endeavoured to vilify the Monarchical part of the constitution, and to represent it as useless, cumbersome, and expensive: **AT LEAST**, the said Thomas Muir did use words and arguments of the above seditious tendency and import. **FURTHER**, the said Thomas Muir did, sometime during the course of September, October, or November 1792, in the town of Glasgow in the county of Lanark, Kirkintilloch in the parish of Kirkintilloch, and county of Dunbarton, and Miltoun in the parish of Campsie and county of Stirling afore said, and elsewhere, wickedly and feloniously exhort and advise several persons to purchase and peruse various seditious pamphlets and writings; **PARTICULARLY**, the said Thomas Muir did, sometime in the months afore said, within his father's house at Glasgow afore said, or some other place to the Public Prosecutor unknown, wickedly and feloniously advise and exhort John Muir senior, late hatter in Glasgow, Thomas Wilson barber in Glasgow, and John Barclay residing in the parish of Calder and county of Lanark, to read Paine's Rights of Man, and to purchase the same; which book or pamphlet entituled, Paine's Rights of Man, is a most wicked and seditious publication, calculated to vilify the Constitution of this country, to produce a spirit of insurrection among the people, and to stir them up to acts of outrage and



opposition to the Established Government. FURTHER, the said Thomas Muir did, in the course of the months of September, October, or November aforesaid, wickedly and feloniously distribute and circulate, or cause to be distributed and circulated, in the towns of Glasgow, Kirkintilloch, and Miltoun aforesaid, and at Lennoxton in the said parish of Campsie and county of Stirling, or elsewhere, a number of seditious and inflammatory writings or pamphlets; particularly a book or pamphlet entituled, 'The Works of Thomas Paine, Esq;.' Also, a writing or publication, entituled, 'A Declaration of Rights, and an Address to the People, approved of by a number of the Friends of Reform in Paisley;' Also, a paper or publication entituled, 'A Dialogue betwixt the Governors and the Governed;' Also, a paper or publication, entituled 'The Patriot:' Particularly, the said Thomas Muir did, some time in the month of October or November aforesaid, at Kirkintilloch aforesaid, or at some other place to the Public Prosecutor unknown, wickedly and feloniously deliver and put into the hands of Henry Freeland weaver in Kirkintilloch a seditious book or pamphlet, entituled, 'The Works of Thomas Paine, Esq;.' which the said Henry Freeland carried away with him; which book or pamphlet, along with the other wicked, seditious, and inflammatory passages, contains the following:

*Paine's Works, p. 13.* 'Monarchy is ranked in Scripture as one of the sins of the Jews, for which a curse in re-  
'serve is denounced against them.

P. 20. 'In short, Monarchy and succession have laid not  
'this or that kingdom only, but the world, in blood and ashes; it is a form of Government which the Word of God  
'bears testimony against, and blood will attend it.

P. 21 'Why is the Constitution of England sickly, but  
'because Monarchy hath poisoned the Republic?—the  
'Crown hath engrossed the Commons.

'In England a King hath little more to do than to make  
'war, and to give away places; which in plain terms is to  
'impoverish the nation, and set it together by the ears. A



‘ pretty business indeed for a man to be allowed eight hundred thousand pounds Sterling a-year for, and worshipped into the bargain ! Of more worth is one honest man to society, and in the sight of God, than all the crowned ruffians that ever lived.

P. 78. ‘ What are the present governments in Europe but a scene of iniquity and oppression ! What is that of England ? Do not its own inhabitants say it is a market where every man has his price, and where corruption is common traffick, at the expence of a deluded people ? No wonder then that the French Revolution is traduced.

P. 85. ‘ But the *second* head, that of a nation establishing a particular family with *hereditary* powers, does not present itself as despotism, on the first reflection ; but, if men will permit a second reflection to take place, and carry that reflection forward but one remove out of their own persons to that of their offspring, they will then see that hereditary succession becomes in its consequences the same despotism to others which they reprobate it for themselves.

P. 86. ‘ It operates to preclude the consent of the succeeding generation, and the preclusion of consent is despotism.

Part II. p. 30. ‘ All hereditary government is in its nature tyranny. An heritable crown, or an heritable throne, or by whatever fanciful name such things may be called, have no other significant explanation, than that mankind are heritable property. To inherit a government is to inherit the people, as if they were flocks and herds.

P. 51. ‘ The act called the Bill of Rights comes here into view. What is it but a bargain which the parts of the government made with each other to divide powers, profits, and privileges ? You shall have so much, and I shall have the rest ; and with respect to the nation, it said, ‘ for *your share* you shall have the right of petitioning. This being the case, the Bill of Rights is more properly a Bill of Wrongs, and of insult.

P. 54. ‘ The attention of the Government of England

‘ (for I rather choose to call it by this name, than the English Government) appears, since its political connection with Germany, to have been so completely engrossed and absorbed by foreign affairs, and the means of raising taxes, that it seems to exist for no other purposes. Domestic concerns are neglected; and with respect to regular law, there is scarcely such a thing.

P. 126. ‘ The time is not very distant when England will laugh at itself for sending to Holland, Hanover, Zel, or Brunswick, for men, at the expence of a million a-year, who understood neither her laws, her language, nor her interest, and whose capacities would scarcely have fitted them for the office of a parish constable. If government could be trusted to such hands, it must be some easy and simple thing indeed, and materials fit for all the purposes may be found in every town and village in England.’

AND the said Thomas Muir did, some time in October or November aforesaid, within his own or his father’s house at Hunterhill, in the county of Lanark, or at some other place to the Public Prosecutor unknown, wickedly and feloniously put into the hands of William Muir, weaver in Kirkintilloch, eleven numbers of a seditious book or pamphlet, entituled, ‘ The Patriot,’ which the said William Muir carried away with him, and kept possession of; and which book or pamphlet contained among others the following seditious passages :

*Patriot, No. V. p. 168, and 169.* ‘ They have lost the distinguishing character between freemen and slaves; they have lost the distinguishing character of Englishmen! They have lost what the most tyrannical Kings of England would never force from them! They have, in a great measure, lost what their forefathers spent their blood and treasure to defend---the greatest jewel that any people can possess---their constitutional and natural liberty---their birth-right and inheritance derived from God and nature! They have lost the constitutional



‘ means of redress for all their grievances ! What is it indeed they have not lost by that hated septennial law, which has fettered down the elective power of the people, like a dog to a manger, who is only suffered to go abroad *once in seven years* for an airing !’

No. VI. p. 184, & 185. ‘ Rouse then ye Britons ! Awake from the slumbering state of apathy in which you have so long suffered yourselves ingloriously to remain ! Open your eyes to the injuries which have been heaped on you ; and assert your right to have them redressed. Evince to all the world that you are the true descendants and sons of your once famed glorious ancestors ; prove yourselves worthy to inherit, in its highest degree of perfection, that *constitution* which they raised by their valour and cemented with their blood :---Raise your voice---the voice of the people---and sound in the ears of Tyrants, and their abettors, that *you will be free*, and you are so : That voice is the noble, the mighty *fiat*, which none can, or dare to, attempt to gainsay.’

No. XI. p. 375 ‘ And what would he (Earl of Chatham) have thought, if he had lived to hear people now talk of a happy and glorious constitution, evidently built upon corruption and supported by speculation ? And what would he have conjectured, had he seen a proclamation issued to intimidate and prevent the people from exercising their right of conferring upon, and publishing their grievances ?’

No. XII. p. 414. ‘ But we should ask, here, what is the difference between a King of England taxing his subjects without consent of Parliament, and taxing them with the consent of Parliament, which Parliament the King, or his Minister, can influence as he pleases to approve of war or peace, and to vote such supplies as may be required ; no matter how grievous or burdensome, nor for what base or corrupt purposes they are granted : One would think that the latter method is equally *oppressive*, and deserving of reprobation ; for being done with a seeming legality, and



‘ under a form and semblance of *constitutional* procedure,  
 ‘ the people are made parties to their own oppression, and  
 ‘ the greatest insults are added to the heaviest injuries.’

P. 419. ‘ Here we see clearly the origin of the immense  
 ‘ overgrown landed property of our race of nobles and rich  
 ‘ commoners ; a right founded in murder, desolation, ra-  
 ‘ pine, and proscription of the first owners and holders of  
 ‘ the landed property in this kingdom, among our Saxon,  
 ‘ ancestors ; and by this we may easily trace the means by  
 ‘ which our nobility are at this moment not only in posses-  
 ‘ sion of one branch of the legislature by hereditary claim,  
 ‘ but by which they have also monopolised, with the addi-  
 ‘ tion of a few rich commoners, the *majority of voice in the*  
 ‘ *House of Commons*, which, shame to tell, is bare-facedly  
 ‘ called the Representation of the *People*. This we pledge  
 ‘ ourselves to prove to the satisfaction of our readers in the  
 ‘ course of this work, and indeed of a few more numbers.’  
 And the said paper or publication, entituled, ‘ A Decla-  
 ‘ ration of Rights, and Address to the People, approved of  
 ‘ by a number of the Friends of Reform in Paisley,’ distri-  
 ‘ buted and circulated as aforesaid, contained the following  
 passages :

*Paisley Declaration*, p. 4. ‘ 1. Being subject to the legis-  
 ‘ lation of persons whom *other men have placed over you*, it is  
 ‘ evident you are denied that which is the right of every one,  
 ‘ and without which none are *free*. For to be *enslaved*, is to  
 ‘ have no will of your own in the choice of those law-makers,  
 ‘ which have power over your *properties*, your *families*, your  
 ‘ *lives*, and *liberties*. Those who have no votes for electing  
 ‘ representatives are not free, as the rights of nature, and  
 ‘ the principles of our constitution, require, but are en-  
 ‘ slaved to the representatives of those who have votes.’

P. 5. ‘ 3. Should you not associate in your own cause, and  
 ‘ with one voice? the voice of united millions, demand re-  
 ‘ form in the national representation.

P. 8. ‘ 10. But such a Parliament cannot be had unless we  
 ‘ will revert to the first principles of our constitution, which

‘ we have so shamefully abandoned. A government where  
 ‘ the executive and legislative power meet in a single per-  
 ‘ son has no more pretence to freedom ; it is perfect des-  
 ‘ potism ; and the people who submit to it are in a state of  
 ‘ *slavery*. If the will of the Prince *must* be *law*, in what  
 ‘ manner it is announced, whether the mandate issue direct-  
 ‘ ly from the throne itself, or through the medium of the  
 ‘ House of Commons, is a matter of indifference. If that  
 ‘ assembly is no longer the representative of the people, the  
 ‘ constitution is *changed*. If those men who are said to re-  
 ‘ present us are only the *registers* of the *Royal edicts*, the  
 ‘ government is degenerated into an *absolute Monarchy*.  
 ‘ Since electing a Parliament is our only security against  
 ‘ an *arbitrary* power in the Crown, election itself must be  
 ‘ not only the common right, but the common *duty*, of all  
 ‘ the people.’

P. 15. ‘ But the evils of long Parliaments---are they not  
 ‘ written in *tears* and in *blood*? And have they left us aught  
 ‘ of liberty but the name? With the poor exception, then, of  
 ‘ one year of freedom in *seven*, and that in favour of not  
 ‘ *one-seventh*, part of the nation, it is demonstrated that you  
 ‘ are *constantly taxed without being represented, and compelled*  
 ‘ *to obey laws to which you never gave assent*. Are not these  
 ‘ the very definitions of slavery? And, are you not thus  
 ‘ degraded to a level with the very *cattle* in the field, and  
 ‘ the sheep in the fold ; which are a property to those who  
 ‘ rule over them, and *have no power to say*, why are we  
 ‘ bought and sold? why are we yoked and laden with hea-  
 ‘ vy burdens? why are we *fleeced* and led to the slaughter?  
 ‘ Demand then with one voice, friends and countrymen,  
 ‘ that share in making your own laws to which, by the con-  
 ‘ stitution and the laws of nature, you are entitled ; call  
 ‘ for the *Bill* which would restore your lost constitution,  
 ‘ and recover your stolen rights ! Pursue the only course  
 ‘ which can ever effect any considerable reduction of debts  
 ‘ and taxes, or materially advance the interest of manufac-  
 ‘ tures and commerce ! In short, be free, prosperous, and



‘ happy ! and give your posterity the same cause to revere  
 ‘ your memories, as you have to bless *those progenitors* who  
 ‘ left you an inheritance in a free constitution.’

And the above writing or publication, entitled, ‘ A  
 ‘ Dialogue between the Governors and the Governed,’  
 distributed and circulated as aforesaid, contained, among  
 others, the following passage :

Dialogues. ‘ *Civil Governors*. The law enacts that ye  
 be submissive.

‘ *People*. The law is the general will, a new order.

‘ *Civil Governors*. You will be a rebellious people.

‘ *People*. Nations cannot revolt ; tyrants are the only  
*rebels*.

‘ *Civil Governors*. The King is with us, and he com-  
 mands you to submit.

‘ *People*. The Kingly office originates in the people, who  
 ‘ elect one of themselves to execute it for the *general good*.  
 ‘ Kings, therefore, are essentially indivisible from their na-  
 ‘ tions. The King of ours, then, *cannot* be with you ; you  
 ‘ only possess his phantom. And the Military Governors  
 ‘ stepping forward, said, “ The people are timid, let us  
 ‘ menace them, they only obey force. *Soldiers, chastise*  
 ‘ *this insolent rabble.*”

‘ *People*. Soldiers, you are of our own blood ! Will you  
 ‘ strike your brothers ? If the people perish, who will main-  
 ‘ tain the army ?---And the soldiers grounding their arms,  
 ‘ said to their chiefs, “ We also are the people, we are  
 ‘ the enemies of -----.” ‘ Whereupon the *Ecclesiasti-*  
 ‘ *cal Governors* said, “ There is now but one resource left.  
 ‘ The people are superstitious ; we must frighten them  
 ‘ with the name of God, and of Religion.---Our dearly be-  
 ‘ loved brethren, our children ! God has appointed us to  
 ‘ govern you.”

‘ *People*. Produce to us your heavenly powers.

‘ *Priests*. You must have faith, reason will lead you a-  
 stray.

‘ *People*. Do you govern then without reason ?



‘*Priests.* God ordains peace: Religion prescribes obedience.

‘*People.* Peace presupposes justice; obedience has a right to know the law it bows to.

‘*Priests.* Man is only born into this world to suffer.

‘*People.* Do you then set us the example.

‘*Priests.* Will you live without Gods and without Kings?

‘*People.* We will live without Tyrants, without Imposters.’

FURTHER, the said Thomas Muir having, upon the 11th, 12th, or 13th days of December 1792, or on one or other of the days of that month, been present at a meeting calling itself ‘The Convention of *Delegates* of the Associated ‘Friends of the People,’ or assuming some such name; which meeting was held in a room commonly called Laurie’s Room, in James’s Court, in the City of Edinburgh, he did then and there, with a wicked and seditious design, produce, and read aloud to the said meeting, a writing or paper, entitled, ‘Address from the Society of United ‘Irishmen in Dublin, to the Delegates for promoting a ‘Reform in Scotland.’ Which writing or paper was of a most inflammatory and seditious tendency, falsely and infidiously representing the Irish and Scotch nations as in a state of downright oppression, and exciting the people rebelliously to rise up and oppose the government. And which paper or writing, among other passages, contained the following:

P. 1. ‘We take the liberty of addressing you in the spirit of ‘civic-union, in the fellowship of a just and common cause. ‘We greatly rejoice that the spirit of freedom moves over ‘the surface of Scotland, that light seems to break from ‘the chaos of her internal government, and that a country ‘so respectable for her attainments in science, in arts, and ‘in arms, for men of literary eminence, for the intelligence ‘and morality of her people, now acts from a conviction ‘of the union between virtue, letters, and liberty; and

‘ now rises to distinction, not by a *calm, contented, secret*  
 ‘ wish for a reform in Parliament, but by openly, actively,  
 ‘ and urgently *willing* it, with the unity and energy of an  
 ‘ embodied nation. We rejoice that you do not consider  
 ‘ yourselves as merged and melted down into another coun-  
 ‘ try, but that in this great national question you are still  
 ‘ Scotland.’---Also,

‘ We will lay open to you our hearts : Our cause is your  
 ‘ cause. If there is to be a struggle between us, let it be,  
 ‘ which nation shall be foremost in the race of mind. Let  
 ‘ this be the noble animosity kindled between us, who shall  
 ‘ first attain that free constitution from which both are  
 ‘ equi-distant, Who shall first be the saviour of the empire.  
 ‘ The sense of both countries, with respect to the intole-  
 ‘ rable abuses of the constitution, has been clearly manifest-  
 ‘ ed, and proves that our political situations are not diffi-  
 ‘ milar, that our rights and wrongs are the same.’---Also,

‘ We will not be the dupes of such ignoble artifices.  
 ‘ We see this scheme, of strengthening political persecution  
 ‘ and state inquisition, by a fresh infusion of religious fana-  
 ‘ ticism. But we will unite, and we will be free. Uni-  
 ‘ versal emancipation, with representative legislature, is  
 ‘ the polar principle which guides our Society, and shall  
 ‘ guide it, through all the tumult of factions, and fluctua-  
 ‘ tions of parties. It is not upon a coalition of Opposition  
 ‘ with Ministry that we depend, but upon a coalition of  
 ‘ Irishmen with Irishmen; and in that coalition alone we  
 ‘ find an object worthy of reform, and, at the same time,  
 ‘ the strength and sinew both to attain and secure it. It is  
 ‘ not upon external circumstances, upon the pledge of man  
 ‘ or minister, we depend, but upon the internal energy of  
 ‘ the Irish nation.---We will not buy or borrow liberty  
 ‘ from America or from France, but manufacture it for  
 ‘ ourselves, and work it up with those materials which the  
 ‘ hearts of Irishmen furnish them with at home.---We do  
 ‘ not worship the British, far less the Irish constitution, as  
 ‘ sent down from heaven; but we consider it as human



‘workmanship, which man has made, and man can mend.  
 ‘An unalterable constitution, whatever be its nature, must  
 ‘be despotism. It is not the constitution, but the people,  
 ‘which ought to be inviolable; and it is time to recognise  
 ‘and renovate the rights of the English, the Scotch, and  
 ‘the Irish nations.---Also,

‘You have our ideas---answer us, and that quickly.---  
 ‘This is not a time to procrastinate.---Your illustrious  
 ‘Fletcher has said, that the liberties of a people are not to  
 ‘be secured without passing through great difficulties; and  
 ‘no toil or labour ought to be declined to preserve a na-  
 ‘tion from slavery. He spoke well; and we add, that it is  
 ‘incumbent on every nation who adventures into a conflict  
 ‘for freedom, to remember, it is on the event (however  
 ‘absurdly) depends the estimation of public opinion; ho-  
 ‘nour and immortality, if fortunate; if otherwise, infamy  
 ‘and oblivion. Let this check the rashness that rushes un-  
 ‘advisedly into the Committee, of national character; or,  
 ‘if *that be already made*, let the same consideration impel  
 ‘us with active, not passive perseverance, with manly con-  
 ‘fidence, and calm determination, smiling with equal scorn  
 ‘at the bluster of official arrogance, and the whispers of  
 ‘private malevolence, until we have planted the flag of  
 ‘freedom on the summit, and are at once victorious and  
 ‘secure.

‘*M<sup>r</sup> Alister, 102. Grafton Street, Printer.*

WHICH seditious paper or writing, containing, among o-  
 thers, the above passages, the said Thomas Muir did, im-  
 mediately thereafter, wickedly and feloniously, propose  
 should be received, and lie on the table of the said Meet-  
 ing; and did also move, that the thanks of the Meeting,  
 or some acknowledgment, should be returned to those from  
 whom the foresaid paper or address came. AND MORE-  
 OVER, the said Thomas Muir did, then and there, wic-  
 kedly and feloniously express his approbation of the senti-



ments contained in the said paper or address, or, at least, did declare, that it was altogether harmless, or used words and expressions of a similar import, notwithstanding that many of those who were present at the foresaid meeting did oppose and object to the foresaid paper or address being read, or allowed to lie on the table, or in any shape acknowledged by the said Meeting. AND the said Thomas Muir having been brought before John Pringle, Esq; our Sheriff-depute of the county of Edinburgh, upon the 2d day of January 1793, did, in his presence, emit and sign a declaration: but immediately thereafter, the said Thomas Muir, conscious of his guilt in the premises, did, in order to evade punishment, abscond and leave the kingdom; and having been indicted at the instance of our Advocate, for our interest, to stand trial before the High Court of Justiciary, upon the 11th day of February last, the diet was afterwards continued to the 25th of that month, to give him the better opportunity of appearing, if he was so disposed; but the said Thomas Muir having notwithstanding failed to appear, he was, on the 25th of February last, fugitate by a sentence of the said High Court. AND the said Thomas Muir having lately, in a private and clandestine manner, come into this Country, by the way of Ireland, he was discovered at Portpatrick, apprehended, and committed prisoner to the tolbooth of Stranraer, in the county of Wigton, on the 30th, or some other day in the month of July last; and, at same time, sundry papers found in his possession were, together with his pocket-book, sealed up in the presence of William Ross, Esq; one of our Justices of Peace for the shire of Wigton, under the seals of the said Thomas Muir and the town seal of Stranraer. AND the said Thomas Muir having been afterwards transmitted to Edinburgh, by warrant of our High Court of Justiciary, alongst with the said pocket-book and papers, the sealed parcel containing the same was opened in presence of him, the said Thomas Muir, and Harry Davidson, Esq; Sheriff-substitute of the county of Edinburgh, upon the 10th day of

August current, the seals having been previously inspected by the said Thomas Muir, and declared by him to be entire, and an inventory of the contents thereof was made, and signed by the said Thomas Muir and Harry Davidson, and others then present. AND the above mentioned declaration, emitted by the said Thomas Muir before the Sheriff-depute of Edinburgh upon the 2d of January 1793, together with a copy of 'Paine's Works,' recommended and circulated as aforesaid; as also, a copy of the said 'Declaration of Rights, and an Address to the People, approved of by a number of the Friends of Reform in Paisley,' circulated as aforesaid; as also, a copy of the 'Dialogue between the Governors and the Governed,' circulated as aforesaid; as also a copy of 'The Patriot,' circulated as aforesaid; as also, a copy of 'the Address from the Society of United Irishmen in Dublin,' to the Delegates for promoting a Reform in Scotland,' produced, read, and approved of by the said Thomas Muir, in manner aforesaid, and attested by the subscriptions of James Denholm, James Campbell, and others; and also, a book, entituled, 'The Book of the Records of the Association of the Friends of the Constitution and of the People of Kirkintilloch, volume 1st, Entered at Kirkintilloch, November 1792;' and also the aforesaid inventory, made up before the said Thomas Muir and the Sheriff-substitute of Edinburgh, upon the said 10th day of August current, with the whole articles and papers therein contained and referred to, will all be used in evidence against the said Thomas Muir, and will for that purpose in due time be lodged with the Clerk of the High Court of Justiciary, before which he is to be tried, that he may have an opportunity of seeing the same. AT LEAST, times and places above mentioned, the said seditious speeches and harrangues were uttered, the said seditious books or pamphlets recommended to be purchased and perused, the said seditious books or pamphlets circulated and distributed, as aforesaid, and the said wicked and inflammatory address produced, read, recommended, and ap-



proved of, in manner above mentioned ; and the said Thomas Muir is guilty actor, or art and part, of all and each, or one or other of the foresaid crimes. ALL WHICH, or part thereof, being found proven, by the verdict of an assize, before our Lord Justice General, Lord Justice Clerk, and Lords Commissioners of Justiciary, in a Court of Justiciary to be holden by them within the Criminal Court-house of Edinburgh, the said Thomas Muir OUGHT to be punished with the pains of law, to deter others from committing the like crimes in all time coming.

L I S T

# LIST OF WITNESSES.

1. John Brown, weaver at Lennoxton, in the parish of Campsie, and county of Stirling.
2. John Speir, weaver at Lennoxton aforesaid.
3. William Robertson, excise-officer at Lennoxton aforesaid.
4. Francis Clark, callico printer at Lennox Mill, parish and county aforesaid.
5. Alexander Johnston, bleacher at Kincaid Printfield, in parish of Campsie aforesaid.
6. Henry Freeland, weaver in Kirkintilloch.
7. William Muir, weaver in Kirkintilloch.
8. John Scot, wright in Kirkintilloch.
9. Robert Weddel, weaver in Kirkintilloch.
10. James Baird, hosier in Kirkintilloch.
11. The Rev. Mr. William Dunn, minister of Kirkintilloch.
12. John Scott, weaver in Townhead of Kirkintilloch.
13. William Knox, weaver there.
14. James Muir, student of divinity residing at Campsie.
15. Anne Fisher servant, or late servant, to Mr. John Carlisle collector of the cefs in Glasgow.
16. Thomas Wilson, barber in Glasgow.
17. William Reid, bookseller and stationer in Glasgow.
18. James Braith, bookseller and stationer there.
19. David Blair, manufacturer in Glasgow.
20. John Muir, senior, late hat-manufacturer, presently residing in Glasgow.
21. John Barclay, residing in the parish of Calder, in the county of Lanark, and one of the elders of the said parish.
22. The Reverend Mr. James Laplie, minister of Campsie.
23. James Campbell, writer to the signet.



24. James Denholm, writer in Edinburgh.
25. Hugh Bell, brewer in Edinburgh.
26. John Buchanan, baker in Canongate of Edinburgh.
27. Mr. John Morthland, advocate.
28. William Skirving of Strathruddie, residing in Edinburgh.
29. Lieutenant-Colonel William Dalrymple of Fordell.
30. Mr. Robert Forfyth, advocate.
31. Richard Fowler, student of medicine, residing, or lately residing in Edinburgh.
32. John Pringle, Esq; Sheriff-depute of the county of Edinburgh.
33. William Scott, folicitor-at-law, and procurator-fiscal of the said county of Edinburgh.
34. Joseph Mack, writer in Edinburgh.
35. Sir James Colquhoun of Luss, Baronet, Sheriff-depute of the shire of Dunbarton.
36. William Honyman, Esq; Sheriff-depute of the shire of Lanark.
37. Harry Davidson, Esq; Sheriff-substitute of the county of Edinburgh.
38. George Williamson, messenger in Edinburgh.
39. Mr. James Carmichael, commander of the Justice hulk, in the service of the Board of Customs.
40. William Ross, Esq; one of the Justices of Peace for the county of Wigton.

LIST

## LIST OF ASSIZE.

- Sir John Clerk, of Pennycuick, Baronet.  
 Sir William Dick, of Prestonfield, Baronet.  
 Sir John Inglis, of Cramond, Baronet.  
 Sir Archibald Hope, of Craighall, Baronet.  
 Sir James Fowlis, of Collington, Baronet.  
 Sir Philip Ainslie, of Comley-Bank.  
 Charles Watson, of Saughton.  
 James Forrest, of Comiston.  
 Thomas Craig, of Riccarton.  
 10 Captain John Inglis, of Auchindinny.  
 John Wauchope, of Edmonstone.  
 John Balfour younger, of Pilrig.  
 David Johnston, of Bavelaw.  
 John Davie, of Gavifide.  
 15 Andrew Wauchope, of Niddry Marisbal.  
 John Trotter, of Mortonhall.  
 Gilbert Innes, of Stow.  
 John Davidson, of Ravelrigg.  
 James Rocheid, of Inverleith.  
 20 John Newton, of Curriehill.  
 James Calderwood Durham, of Polton.  
 Thomas Wright, of Greenhill.  
 James Gillespie, of Spyelaw.  
 Thomas Sivewright, of South-house.  
 25 James Kerr, of Woodburn.  
 John Alves, of Dalkeith, portioner.  
 Patrick Pridie, hatter in Edinburgh.  
 Thomas Brown, bookfeller there.  
 Andrew Smith, perfumer there.  
 30 James Charles, hosier there.  
 Alexander Inglis, merchant there.  
 William Pattison, merchant there.



- William Cooper, upholsterer there.  
 Andrew Ramsay, flater there.  
 35 Thomas Duncan, bookseller there.  
 William Dalrymple, merchant there.  
 Francis Buchan, merchant there.  
 James Mansfield, banker there.  
 Donald Smith, banker there.  
 40 James Dickson, bookseller there.  
 Samuel Paterfon, merchant there.  
 George Kinnear, banker there.  
 Andrew Forbes, merchant there.  
 John Horner, merchant there.  
 45 Alexander Wallace, banker there.

W<sup>M</sup>. NAIRNE.

ALEX. ABERCROMBY.

JOHN SWINTON.

To this indictment, Mr. Muir pleaded, Not Guilty. He was then asked by the Lord Justice Clerk, if he had any objections to the relevancy of the charges which it contained. Mr. Muir replied that he had uniformly considered the Jury as the only judges of the law and of the fact; and that, in this stage of the trial, he would plead upon no point, which might preclude the determination of the Jury, by a previous decision of the Court.

In point of form, it is required in Scotland, that the person accused should communicate upon the evening preceding the trial, in writing the substance of his defence with a list of the witnesses intended to be adduced in exculpation. Mr. Muir had complied with this rule, and the Clerk of Court read the following defences :

## D E F E N C E S.

THE Criminal Libel is false and injurious; so far from exciting the people to riot and insurrection, it can easily be proved, by a numerous list of witnesses, that, upon every occasion, the pannel exhorted them to pursue measures moderate, legal, peaceable, and constitutional. The charge of distributing seditious publications, and of advising the people to read them, is equally false and calumnious. The pannel admits, that on the great national question, concerning an equal representation of the People in the House of Commons, he exerted every effort to procure in that House, a full, fair, and equal representation of the people, as he considered it to be a measure, (and still does,) the most salutary for the interest of his Country. But the pannel offers to prove, that as he considered the information of the People to be the chief thing requisite to accomplish this great object, he uniformly advised them to read every publication, upon either side, which the important question of Parliamentary Reform had occasioned.

Annexed are a list of witnesses in exculpation.

Under protestation to add and aik.

(Signed)

THOMAS MUIR.

LIST of WITNESSES, *adduced in Exculpation.*

William Riddle, baker in Glasgow.

John Hamilton, manufacturer, St. Andrew's Square, Glasgow.

David Dale, jun. manufacturer there.

Basil Ronald of Broomlone, glover in Glasgow.

Alexander Park, writer in Glasgow.

George Waddel, manufacturer in Glasgow.

George Ruffel, merchant in Gallowgate, Glasgow.

John Brock, manufacturer in Glasgow.

John Wilson, shoemaker in Gorbals of Glasgow.



- John Lockhart, mason there.  
 Walter Hart, heritor in Tradestown, Glasgow.  
 Hugh Moodie, spirit dealer in Glasgow.  
 James Cooper, shoemaker, Glasgow.  
 John Gray, manufacturer, Glasgow.  
 Daniel M'Arthur, one of the masters of the grammar-school, Glasgow.  
 James Richardson, sen. merchant, Glasgow.  
 William Clydesdale, cabinet-maker there.  
 John Tennant, brewer there.  
 George Bell, jun. manufacturer there.  
 George Stayley, manufacturer in Balmanno Street, Glasgow.  
 Robert M'Kinlay, print-cutter in Mr. Fulton's employment, near Paisley.  
 William Orr, jun. manufacturer in Paisley.  
 James Craig, manufacturer, Water Brae, Paisley.  
 James Gemmel, merchant, Storie Street, Paisley.  
 William Muir, Fisherrow, Paisley.  
 Hamilton Ballantyne, Storie Street, Paisley.  
 James Muir, weaver, Shuttle Street, Paisley.  
 John Buchannan, foreman at Kincaid Printfield, in the parish of Campsie.  
 Robert Honarie, printer there.  
 Patrick Horn, printer there.  
 Smollet M'Lintock, block-cutter there.  
 William Henry, of Borrowstown parish, Baldernock.  
 James M'Gibbon, printer, at Kincaid printfield.  
 John Freeland, distiller in Kirkintilloch.  
 Andrew Rothead, younger of Duntiblaemill, parish of Kirkintilloch.  
 Robert Boak, surgeon in Kirkintilloch.  
 John Edmond, print-cutter, Kincaid printfield.  
 Robert Millar, weaver in Cambauslang.  
 The Rev. Mr. William Dunn, minister of Kirkintilloch.  
 David Wallace, late servant to James Muir, of Hunterfhill, now to James Stark of Adamslie.

Robert Scott, weaver in Kirkintilloch.  
 Archibald Binnie, type-founder, Edinburgh.  
 Charles Salter, brewer in Edinburgh.  
 Peter Wood, teacher in Portsburgh.  
 John Buchannan, baker in Canongate.  
 —Bell, tobacconist, Canongate.  
 William Skirving, Edinburgh.  
 Maurice Thomson, starch-maker there.  
 Andrew Wilson, brewer in Portsburgh.  
 John Smith, weaver, Lothian Road.  
 Peter Hardie, brewer in Portsburgh.  
 Col. William Dalrymple, of Fordel.  
 William Johnston, Esq; Edinburgh.  
 The Right Hon. Lord Daer.  
 —Newton, residing St. Patrick's Square, Edinburgh.

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The following Interlocutor was then pronounced by the Court upon the relevancy.

“ The Lord Justice Clerk, and Lords Commissioners of  
 “ Justiciary, having considered the criminal libel, raised  
 “ and pursued at the instance of Robert Dundas, Esq; of  
 “ Arncliffe, his Majesty's Advocate, for his Majesty's in-  
 “ terest, against the said Thomas Muir, pannel, they find  
 “ the libel relevant to infer the pains of law, but allow the  
 “ pannel to prove all facts and circumstances that may tend  
 “ to exculpate him, or alleviate his guilt; and remit the  
 “ pannel with the libel, as found relevant, to the know-  
 “ ledge of an Affize.”



## A S S I Z E.

- Sir James Foulis of Collinton.  
 Captain John Inglis of Auchindinny.  
 John Wauchope of Edmonston.  
 John Balfour, younger of Pilrig.  
 5 Andrew Wauchope of Niddry-Marishall.  
 John Trotter of Morton-Hall.  
 Gilbert Innes of Stow.  
 James Rothead of Inverleith.  
 John Alves of Dalkeith, Portioner.  
 10 William Dalrymple, merchant, Edin.  
 Donald Smith, banker, Edin.  
 James Dickson, bookseller, Edin.  
 George Kinnear, banker, Edin.  
 Andrew Forbes, merchant, Edin.  
 15 John Horner, merchant, Edin.

Immediately afterwards the Lord Justice Clerk, asked Mr. Muir, if he had any thing further to state, in support of these defences, as in the further course of the trial, he would be precluded from adducing any thing extraneous.

Mr. Muir then rose up and said, according to the rule of court, I have the evening before this day, communicated to the public prosecutor the substance of my defence in writing. The truth of every word in that defence, I shall strongly prove before I leave this bar. I admit that I exerted every effort, to procure a more equal representation of the People in the House of Commons. If that be a crime, I plead guilty to the charge. I acknowledge that I considered the cause of Parliamentary Reform to be essential to the salvation of my Country : But I deny that I ever advised

the People to attempt to accomplish that great object, by any means which the constitution did not sanction. I grant that I advised the people, to read different publications upon both sides, which this great national question had excited, and I am not ashamed to assign my motives. I consider the ignorance of the people, on the one hand, to be the source from which despotism flows. I consider, upon the other hand, an ignorant people, impressed with a sense of grievances, and wishing to have these grievances redressed, to be exposed to certain misery and to complete ruin. KNOWLEDGE must always precede REFORMATION, and who shall DARE to say that the PEOPLE should be debarred from INFORMATION, where it concerns them so materially? I am accused of sedition; and yet, I can prove by thousands of witnesses, that I warned the people of the *danger* of that crime, exhorted them to adopt none but measures which were constitutional, and intreated them, to connect *liberty* with knowledge, and both with morality. This is what I can prove. If these are crimes, I am guilty.

CAPTAIN INGLIS, before being sworn, mentioned that he was a servant of Government; that he understood Mr. Muir was accused of a crime against Government; and that he did not consider it as proper, that Mr. Muir should be tried by a Jury composed of servants of Government; that his mind felt scrupulous, laboured under much anxiety, and he begged leave to decline being a Jurymen. Captain Inglis was informed by the Court, that there was no impropriety in his being a Jurymen, although belonging to the service of Government.

The Lord Justice Clerk, in the usual form, asked Mr. Muir, if he had any objections to state to the first five gentlemen, whose names he had selected from the list of assize.

Mr. MUIR said: Of these gentlemen I have no personal knowledge. Their situations in life are respectable, and I believe them to be men of truth, and of honour; yet my situation and theirs is so peculiar, that I am obliged to ob-



ject to them being upon this Jury. The question of Parliamentary Reform has agitated deeply, in proportion to its magnitude, the minds of men in this country ; different opinions have been adopted, and different parties have been formed. These gentlemen belong to an association which assembled in Goldsmith's Hall, calling themselves the Friends of the Constitution, united to support it against Republicans and Levellers, and expressing their zeal to suppress tumult and sedition. I belong to the association of the Friends of the People. Viewing a reform in the representation of the people as a measure the most conducive to the stability of the constitution, and to the felicity of the people, we united our common exertions, by legal measures, to accomplish that object.

To the constitution, in its genuine principles, we have solemnly pledged ourselves---Never have we professed to be its enemies, yet the association in Goldsmith's Hall, by a deliberate and public act of theirs, have declared, that we were the enemies of the constitution. Equally zealous in our declarations to the world--in our reprobating riot and sedition ; and sincere in our hearts, that association has denounced us to this country, as attempting to kindle the torch of civil war, and to lay it in blood and in destruction. The fact upon which I found this charge is notorious, and cannot be denied. A Convention of Delegates, from all the Societies of the Friends of the People in Scotland, assembled in this city, upon the 11th day of December last. Of this Convention I had the honour of being a member. The convention accorded with the association in Goldsmith's Hall, in their zeal to support the constitution, in their abhorrence of sedition, and in their determination to concur with good citizens in the suppression of riot and of tumult. To testify then to this association, their principles and their object, the Convention ordered a number of its members to repair to their Hall, and to subscribe the book which they had opened, of adherence to the constitution. In this number I was included. We did so. And, What were the con-

sequences? The association erased our names, and published in the papers of the day their proceeding. Was not this an act of public proscription against us all? Accused this day of sedition, of an attempt to overthrow the constitution, shall those men be my Jurymen; who have not merely accused me, but likewise judged and condemned me without knowing me, without leaving me the possibility of the power of vindication. This trial is no trivial matter. It affects me, but it affects the country more. The noise of it will pass down to other times, and posterity may fancy their most valuable rights connected with its consequences.

A respectable gentleman of the five to whom I now object, has felt the delicacy of his situation, and has honourably avowed his scruples. Such sentiments, so respectful in themselves, I trust are common to all his colleagues.

This is not the only objection I state to the Gentlemen of Goldsmith's Hall being of my Jury. I am accused of circulating the works of Mr. Paine. That Association has publicly advertised their horrors at the doctrines contained in these books. Nay, more, they have offered a reward of five guineas, to any who will discover a person who may have circulated them! If this is not prejudicating my cause, I demand to know what prejudication is!

Upon these two objections, I shall make no further observations. To suppose them not well founded, would be to insult the common sense and the common feelings of mankind.

I demand justice. Let me be tried fairly, not by a Jury of the Association of Goldsmith's Hall, not by a Jury of the Association of the Friends of the People, but by men unconnected with either, whose minds cannot possibly be supposed warped with prejudices. **I THEREFORE SOLEMNLY PROTEST**, that no person who is a member of the Association in Goldsmith's Hall, should, or can, be of the Jury in my trial.

Solicitor-General BLAIR replied, That he considered this objection to be of the most extraordinary nature. The pannel is accused of forming associations, contrary to the Constitution, and he presumes to object to those Gentlemen,



who formed associations in its defence. With equal propriety might the pannel object to their Lordships on the Bench, to be his Judges in this trial: their Lordships had sworn to defend the Constitution.

MR. MUIR. This day, I will not descend into the quibbles of a Lawyer. I object to these gentlemen, not because they associated in defence of the constitution. I too, as well as they, have associated in defence of the constitution. But my objection is, that they, by an act of theirs, have publicly accused me of being an enemy to the constitution, have already pronounced the sentence of condemnation, and have imposed upon my name the seal of proscription.

LORD JUSTICE CLERK.—If the objections of the pannel were relevant, it would extend far indeed; it would go to every person who had taken the oaths to government. I can see nothing in the objection, and I am clear for repelling it.

LORD HENDERLAND.—I can see nothing in the objection, these gentlemen entered into a society for a particular purpose, and had the right of judging of the qualification of their members; they did not think Mr. Muir or his friends proper members. In no trial whatever could this be a good objection.

The objection was repelled. Mr. Muir, however, continued to repeat it, as every five were sworn.

When the list of the five last was presented, he said it was not sufficient to say that these gentlemen were free to form a society, this is a fact which no man in his sound senses will dispute. But, this society when formed, had opened, in a public place, a book for public subscription. By repeated advertisements they had called upon every friend to the constitution, every enemy to sedition and tumult, every person inimical to a public division of property by a levelling system, to come and subscribe their names in that book, as expressive of their attachment to the constitution, to property, and to peace. Every porter, every chairman from the streets, was allowed to insert his subscription.

Why were the names of the pannel and his friends expunged? Was it not a public denunciation, of their being the supporters of that system of plunder and of disorder, which that association was to oppose?

When the jury were sworn in, Mr. Muir again stated, that he believed them to be men of truth and integrity, but never would cease recalling to their attention the peculiarity of their situation. They had already determined his fate. They had already judged his cause; and, as they valued their reputation, their own internal peace, he entreated———Here Mr. Muir was interrupted by the Court, who concurred in opinion, that his conduct was exceedingly improper, in taking up their time, as the objection had been repelled!

The counsel for the Crown now proceeded to call the witnesses.

#### ALEXANDER JOHNSTON.

Mr. Muir objected to this witness. He said he did not know him. He did not remember if ever he had seen him, but he could clearly prove, by respectable witnesses, that this person had said, upon hearing of his arrival in Scotland, that he would do every thing in his power to have him hanged.

Mr. Muir was asked if he could condescend upon any particular circumstances of malice, which this witness entertained against him. He replied that he did not know him, therefore could specify no circumstances from which the proposed witness might have entertained malice against him; but the fact that he had so expressed himself was certain and true, and if permitted, he would immediately substantiate what he had asserted, by the most convincing proof.

The objection was repelled. The Court observed, that witnesses might be averse to bear testimony. That for this purpose they might make similar assertions in order to disqualify themselves. That if, upon objections of this kind,



they were to be cast, the ends of public Justice, might be defeated ; besides, it was observed, that the witnesses would be purged of malice upon oath.

The objection was over-ruled, and the witness was adduced.

### ALEXANDER JOHNSTON,

Depones, That he was present at a meeting in Kirkin-tilloch, sometime in the month of November last, but does not remember the day. That the meeting had then no name, but has been since known by the name of a Reform Meeting. Mr. Muir was present who harangued the meeting. As far as he recollects, Mr. Muir addressed the President ; stated the disadvantages in the Representation, some Boroughs being rotten, others having no vote. He stated the population of England, and Scotland, and mentioned, that from the smallness of the number who voted, the people were not fully represented. Mr. Muir said, that if a man paid £. 20,000 for a seat in Parliament, he behoved to derive some interest from his seat, and he referred to the people, whether it was reasonable that a man should pay so much for a seat in Parliament, without deriving some emolument in return. That the Duke of Richmond, had complained of this, and had £. 30,000.---He was silent.---That Mr. Muir compared our Constitution with the French, and said, that beyond a doubt they would be successful. That they were more equally represented, and their taxes much less. That two thirds of the French national debt was already paid. That a manufacturer in this country could not bring his goods to market with the same advantage as the French Manufacturers ; of course, we should lose our trade. Mr. Muir said, the Society ought to be acquainted with the principles of those members they admitted. That the sole intention of these Societies, was to procure a more equal and a shorter duration of Parliament. That the means these Societies were to use, for these ends, was to petition Parliament, and to communicate their resolutions, and extend their knowledge, by publishing and circulating useful

publications. That in order to obtain that knowledge, they ought to get *all* political pamphlets from a neighbouring Bookfeller ; but he did not mention any pamphlet in particular.

Upon the interrogatory of the Solicitor-General. Deponed, That nothing was said about a King, but that the Constitution ought to consist of King, Lords, and Commons. There was mention made of Paine's Rights of Man, but not by Mr. Muir. One man in the Society, not in a public manner, but to his neighbour privately, said, he had read that work. The most of the members were young weavers, from eighteen to twenty years of age. He knew of no previous meeting at Kirkintilloch, this one being the constituting one. Mr. Muir did not come into the meeting till after it was constituted, but had promised in the morning to be there. He seemed to be the principal man in that Society, and said, he belonged to other Societies, of the same sort : He recommended a timeous accomplishment of the business, in order, that when the different meetings had communicated with each other, they might lay it before Parliament. At the time he recommended the above measure, some of the members wished to form meetings. Being interrogated by Mr. Muir, he deponed, That Mr. Muir did recommend peace and regularity to the meeting, and observed that any tumult or disorder would ruin their common cause. He told the meeting, that there was no other mode of procuring redress, but by applying to Parliament, and he recommended to the meeting to beware of admitting immoral characters as members.

#### ROBERT WEDDEL,

Depones, That he remembers a meeting in Kirkintilloch, about the beginning of November last, which was called the meeting of the Friends of the People, or, for a Parliamentary Reform. That Mr. Muir was at this meeting, which was the constituting meeting---came in after the meeting began, and made a speech in which he advised regularity in



their proceedings ; and mentioned that they ought to proceed, in a constitutional manner, as the law now is, by King, Lords, and Commons. He said nothing about the expence of a King, nor the burden of taxes, nor the comparative expence of the French Government, nor did he mention the success of their arms. He spoke about ten minutes. After the meeting broke up, the witness met Mr. Muir with some others, in Mr. Wallace's, Baker in Kirkintilloch, where the conversation was about the politics of the country---there were about eight present in Mr. Wallace's, or one fourth of the number that was at the meeting. The witness was Vice-President of the Meeting, Mr. Freeland was President, and James Baird was Secretary, there were no other officers, and all these were with Mr. Muir in Wallace's. He does not remember the particulars of the conversation, but Flower on the French Constitution was mentioned, which he never before had heard of. He thinks it was Mr. Muir that mentioned this book, in speaking of new publications, and he remembers books being spoken of. Depones, That at the meeting, one Boyd asked Mr. Muir's opinion about Paine's Works, when Mr. Muir said, that it was foreign to their purpose. He remembers this, because he was angry at the question being asked.

Upon the Lord Advocate's interrogatory, Whether Flower's Book had been recommended, Mr. Muir objected to the question. The witness was removed.

Mr. MUIR.---There is no accusation brought against this book in the libel. Let it be admitted that this book is of a seditious or a treasonable nature, yet, as I am not accused of either recommending or circulating it, how can any thing under this indictment, concerning it, be adduced in evidence against me? I plead upon a great principle of natural justice : I look forward to other times, and I tremble for the precedent. If this were not the case, I would not say that I merely approved of that book of Mr. Flower's, but, in this great audience, I would recommend its principles, in general, to every man who valued the interests of

his country, and whose feelings interest him in the happiness of human kind.

LORD ADVOCATE.---The charge against the Pannel is sedition, and it is branched out under various heads. One of these was, advising people to purchase seditious books; and he was entitled to examine as to such facts, though every particular book or fact was not condescended on in the libel.

Mr. MUIR.---Neither in justice nor in law has the Public Prosecutor a right to bring against me a general charge. Every criminal charge, upon the facts, must be special, in order that the pannel may know the crime that is alledged against him, and accordingly prepare the special matter of his defence.

LORD JUSTICE CLERK.---By the Statute of James VI. wherever art and part is libelled, there can be no objection to the generality. This is a proper question; and it has a tendency to establish the major proposition, and it ought to be sustained.

The Lord Advocate gave up the question.

The witness was again called in, and deponed, That he knows of no books having been recommended to be purchased in consequence of this meeting, except Henry's History of England. The books purchased by the witness for the Society or others, were three or four copies of the Political Progress,---three or four copies of the Paisley Declaration, one copy for his own use and one for the Society; That he was not ordered by the meeting to buy them, but bought them for his own use, and to show his neighbours. He never purchased any of Paine's pamphlets, but he got a copy of that pamphlet, he does not know from whom, and which happened sometime before the meeting. He never saw the Dialogue between the Governors and the Governed. He saw the Patriot, and was shewn it by Mr. William Muir. Upon being interrogated by the Pannel, depones, That he recommended Henry's History but no other book, ---That he recommended order and regularity; and upon



the Solicitor General's interrogatory, depones, That Mr. Muir particularly said, that they would be the more successful the more they were constitutional: That their end was to obtain a more equal Representation in Parliament: That the witness meant by that a *more* equal Representation, but he does not know the precise terms: That he cannot say more, but there were different opinions in the Society, one part of them wanting it confined to the landed interest, another to have it that every man should have a vote, but Mr. Muir gave no opinion. Upon Mr. Muir's interrogatory, depones, that Mr. Muir recommended to avoid riot, and said, that tumult would ruin the cause; he also advised them to take care of the moral character of the members whom they admitted. He does not remember whether Mr. Muir said he would desert them, if they became unconstitutional, and he does not remember that he recommended them to purchase any other book than Henry's History of England.

#### REV. MR. JAMES LAPSLIE.

The Public Prosecutor next adduced as a witness Mr. Lapslie—

Mr. MUIR—Let this witness be removed. I have *many* objections to state against him,

Mr. Lapslie was accordingly removed.

Mr. MUIR—I have said that I have many objections to state, both to the admissibility and credibility of this witness. My delicacy with regard to that man, will, at present, permit me to adduce the least weighty only; for I mean to prove the most important, in a different shape, in a criminal prosecution against him, when he and I shall exchange places at this bar. I know not what title this Reverend Gentleman has to act as an agent for the Crown; but this I offer to prove, that he assisted the Messengers of the Law, in exploring and citing witnesses against me; that he attended the sheriffs in their different visits to the parishes of Campsie and Kirkintilloch, that previously to the

precognition, he conversed with the witnesses of the Crown, that he attended their precognition, put questions to them and took down notes ; nay, more, that, without being cited by the Prosecutor, he offered himself ultroneously against me, and insisted that his declaration should be taken in the unusual form, with his oath attending it, to attest its truth. Upon other matters I shall not dwell ; it is sufficient for me to say, that this witness attended the precognition of other witnesses. The uniform and the late decisions of your Lordships have sustained this objection—the witness therefore cannot be examined.

The LORD ADVOCATE said, that he knew the Court had sustained the objection in many late cases. He would not dispute the point of Law at present, afterwards indeed he might upon some future occasion, but consented that Mr. Muir should be allowed to prove the first part of his objection, of Mr. Lapslie's activity as an agent in collecting evidence against him.

In proof of the objection Mr. Muir called

#### HENRY FREELAND,

Depones, That he knows Mr. Honeyman, (Sheriff of Lanarkshire) and saw him at Kirkintilloch, in company with Mr. Lapslie and another gentleman, a writer in Glasgow. Mr. Honeyman examined the witness about Mr. Muir ; and, during the precognition, Mr. Lapslie also put questions to the witness. He asked him, if he had got a College education, which being answered in the negative, Mr. Lapslie said he was a clever fellow, and when he saw him write, he said it was a pity such a clever fellow should be a weaver, and that it was in Mr. Honeyman's power to procure him a birth, which was said in presence of Mr. Honeyman. That when Mr. Honeyman examined him about how often Mr. Muir had been at Kirkintilloch meetings, Mr. Lapslie also asked him if Mr. Muir had been more than once there. That on the above occasion when Mr. Lapslie praised the witness's abilities, the witness an-



swered, that it was flattery, when Mr. Lapslie clapped him on the shoulder, and said it was no such thing, but that it was probable Mr. Honeyman would see him again.

Mr. Muir then called

#### ROBERT HENRY,

Who deponed, That he was examined by Mr. Honeyman about Mr. Muir: That Mr. Lapslie was present all the time he was so examined,

#### ROBERT M'KINLEY

Was then called, who deponed, That he was examined at Campsie by Mr. Honeyman, in presence of Mr. Lapslie and Mr. Shiels. Mr. Lapslie spoke to the witness before the examination, and told him to speak the whole truth, and frequently exhorted him, during the examination, to tell every thing as it concerned Mr. Muir, and not him the witness.

Mr. Muir proceeded to call James M'Gibbon, when the Lord Advocate gave up Mr. Lapslie's evidence; consequently there no longer remained any necessity to examine more witnesses, with regard to the conduct of that gentleman. The Prosecutor said, that he gave up Mr. Lapslie as a witness, not on the ground of his being present at the precognitions, but because he appeared, if not an agent, at least to have taken an active part in the business.

The evidence for the Crown then proceeded.

#### HENRY FREELAND.

When this witness appeared, Mr. Muir observed, that the Jury would remember, that from what this witness had already deponed, it would appear that he had got the promise of a good deed.

Then the witness being examined, depones, That he was present at a meeting in Kirkintilloch, which was called a Society for Reform, on the 3d November last. He was president that night and sat in the Chair. Mr. Muir was

there and made a speech of about a quarter of an hour. The general purport of the speech was about shortening the duration of Parliament, and a more equal Representation. He thought the taxes might be lessened by these means : That the Reform was not to take effect as to the King and House of Lords, but only of the Commons. He mentioned the success of the French arms, and that liberty would be established in France. He spoke of books in general, but he does not recollect the name of any being mentioned but Henry's History of England ; in general it was political books. The books this witness remembers to have seen, are the Proceedings of the Westminster Association, the Patriot, and Paisley Declaration. It had been suggested by one Boyd to purchase Paine, but Mr. Muir shook his head, and said it was foreign to the purpose : That the witness sometime before this spoke to Mr. Muir about Paine's book, and asked it as a favour to get the loan of it, and Mr. Muir bid him search his great coat pocket, and he would get it, and that he got it accordingly : That this was on the Tuesday ; eight-days before the meeting, at which time Mr. Muir had sent for him to Mr. Wallace's, and told him that he had heard of the intended society, and that the witness was to be a member ; and that Mr. Muir and the witness afterwards talked of societies in general : That the witness took Paine home with him, and read it, and gave it to his sister : That he gave it to one Scott, and also to one Stewart, who had fought it several times, and was angry he had not got it sooner : That Mr. Muir said, when the witness first asked the book from him, that he thought it had a tendency to mislead the people, and that nothing further passed in respect to it ; and that he has concealed nothing : That he was surprised Mr. Muir did not recommend it, because every body else spoke well of it, and was surprised that Mr. Muir said it had a bad tendency : That Mr. Muir did not approve of the book, but on the contrary said, it had a bad tendency : That he knows no particular reason for his being sent for : That he



knows books were bought for the society; and that he wrote to Mr. Muir, saying that the books then in circulation gave satisfaction: That he received a letter from Mr. Muir, telling that Mr. Provan's cause had been decided in the Court of Session: That he got two letters from Mr. Muir, in which he desired the witness to impress the society with the importance of sending a delegate to the Convention, and hoped to see him there, but said nothing about the books: That the Paisley Declaration purchased for the society was not recommended by any particular person: That the book before mentioned was afterwards given up by the witness to the Sheriff; and the book being shown to him, he thinks it the same: That he cut up the leaves: That the witness first mentioned the book to Mr. Muir: That there were two pamphlets in Mr. Muir's pocket. Upon Mr. Muir's Interrogatory—depones, there was an intention of having this society long before the witness saw him: that Mr. Wallace, at whose house there was an adjournment from the meeting as aforesaid, was an old servant of Mr. Muir's father, and Kirkintilloch is within four miles of Hunterhill, his father's house: That he did not recommend any other book than Henry's History of England: That he told them all riot would be ruin to the cause, and recommended them to be constitutional and regular: That the people were to petition Parliament, and that there was no other way of getting a Reform. That on Paine being recommended in the society, Mr. Muir said it was foreign to the subject: that the witness having heard that a Proclamation of the King was against that book, he was upon that account curious to see it, and he first spoke of it to Mr. Muir.

#### WILLIAM MUIR.

When the oath was proposed to be administered to this witness, he refused to swear, as being contrary to his religious principles. Being asked what these principles were, he declared he was one of those who are called the Mountain: That he had no objections to be examined: That he

would tell the whole truth, but could not wrong his own conscience by taking an oath, which he thought unlawful.

The Court observed to him, that if he would not swear, no other alternative remained to them, but to commit him to prison; that there was no way by which he could ever obtain his liberation, and that his imprisonment would be perpetual. He replied, that he could not help it, and that he knew the Lord was present in prison, as well as present any where else.

The Judges asked him, if he believed in the Bible; to which he answered, he did. He was then interrogated, if he could point out any particular passage which taught him the unlawfulness of taking an oath. In order to remove his scruples they quoted several passages from the Bible, but he still adhered to his first declaration, saying, that he could not take the oath without deserting his principles, which he was determined never to do.

The LORD ADVOCATE moved, that this person should be committed to prison for his contumacy, informed him there was no way by which he could ever be set free; and, in express words, declared that his imprisonment would be eternal.

Mr. MUIR—I believe this person to be a good and conscientious man. Whether he be right or wrong in refusing to take this oath, is not an object of my inquiry. He is adduced as a witness by the Prosecutor against me. I have therefore the most material interest that he should be sworn, but rather than he should suffer for acting according to the dictates of his conscience, I wave my right, and I will admit every word which he utters, although not upon oath, to be as true as if it were,

The Court observed, that neither they, nor the jury could listen to any evidence but what was given upon oath. The law expressly required it, and it could not be dispensed with, and that the Prosecutor and public justice was concerned in this matter also.

William Muir persisted in his refusal. The Court committed him to prison, declaring they knew no mode by



which, by the law of Scotland, he could be liberated. By the officers of Court he was conducted to prison.

JOHN BROWN,

Depones, That he was present at a meeting at Campsie, about the month of October or November last: That Mr. Muir and Mr. Buchanan both spoke at that meeting: That he also was at a meeting in Kirkintilloch: That he does not understand these meetings were called by Mr. Muir: That he has bought Paine's book, but does not recollect whether he did so before or after the meeting: That he bought it merely from curiosity, seeing the title in a window: That he does not remember, whether or not that book was mentioned at the meeting: That he does not recollect Mr. Muir mentioning France: That the tenor of Mr. Muir's speech was to inculcate upon them the necessity of sobriety, to pursue constitutional measures, and to read constitutional books: That there were no books in the meeting, and that at a conversation he heard Mr. Muir say, that Paine's book was not a constitutional book, and would not do.

ANNE FISHER,

Depones, That she was sometime servant to Mr. Muir's father; she knows, about the time libelled, Mr. Muir was much busied about reading and writing, but does not know the subject: That she was sent to Mr. Mennons' with a message from Mr. Muir, and with a paper, which she thinks was entitled a Declaration of Rights, which had not been printed as he wanted, and to get it corrected. She saw at that time, a good many country people coming about Mr. Muir's father's shop: That Mr. Muir has frequently said to these country people, that Mr. Paine's book was a good book: That she has frequently bought this book for people in the shop, and that this was sometimes at the desire of Mr. Muir, and sometimes at that of these people. She bought both the first and second part of Paine, at different times, and when she returned with them, she sometimes laid them on the table, and sometimes gave them to the people, that she bought two different parts at different times,

for Alexander Muir, Mr. Muir's uncle. She was sent for a copy by Mr. John Muir, hatter, but is not sure whether or not she got it. That John Muir was much pressed upon by the Pannel to purchase the book : That, to the best of her remembrance, she bought one for one Barclay : That she knows Mr. Muir's hair dresser Thomas Wilson, and she has heard Mr. Muir advising him to buy Paine's Rights of Man, and to keep them in his shop to enlighten the people, as it confuted Mr. Burke entirely : She read this book herself, and got it in her master's house : That she has seen one copy on fine paper, and one or two coarse ones : That, to the best of her remembrance, she has seen the Paisley Declaration on Mr. Muir's table, and sometimes in the dining room : That she thinks she has seen the Dialogue, in Mr. Muir's room, and has heard him read it, in presence of his mother, sister, and others, in his father's back shop : That Mr. Muir said, it was very clever, and wrote by one Vilnew, one of the first wits in France : That she does not remember to have seen the Patriot : That she thinks she has heard part of the Paisley Declaration read by Mr. Muir in the said back shop, in presence of somebody, that being the common place where he read these books : That she has been sent from the back shop upstairs for some books : That she does not recollect whether he thus read these books on a market day ; and that she has known him read some French law books : That she has heard him speak about Reform and members of Parliament : That if every body had a vote, he would be made member for Calder ; that members of Parliament were to have thirty or forty shillings a-day ; and that, in that case, there would be none but honest men to keep the Constitution clear : That she has heard it said, by Mr. Muir, that France was the most flourishing nation in the world ; as they had abolished tyranny and got a free government ; that she heard him say the Constitution of this country was very good, but that many abuses had crept in which required a thorough Reform : That the Courts of law required Reform also, for



they got their money, for doing nothing but pronouncing sentence of death upon poor creatures ; and that it was an useless parade of their coming in to Glasgow : That she recollects, about that time, of Mr. Muir being Council for two soldiers ; at their trial she heard him say, that he told the Judges and the Jury, as much as what they had to expect.

Mr. Muir arose, and made a motion for the witness to withdraw.

Mr. MUIR then said, that the conduct of the Lord Advocate was, in every respect, highly reprehensible. He has put a variety of questions to witnesses, with regard to crimes of which I am not accused. The indictment charges me with making seditious speeches at Kirkintilloch and at Campsie, vilifying the Constitution and the King, and inflaming the minds of people to rebellion. It charges me with distributing seditious books ; and it specifies that I gave away Mr. Paine's Works, some numbers of the Patriot, the Dialogue by Volney, betwixt the Governors and the Governed, the Paisley Declaration of Rights, and of having read, in the Convention, the address from the Society of United Irishmen in Dublin. The indictment charges nothing more, there is not a single letter within its four corners which points out to me the charge of speaking disrespectfully of Courts of Justice, tending, in any manner, to excite the people against the administration of the law. Compared to a crime of this nature, the giving away to single individuals, single copies of books and pamphlets, which may be esteemed seditious, is a trifle, light as air. If the public Prosecutor had evidence that I was guilty of this crime, he was deficient in his duty to the public, in not making it an article of accusation. He should have manfully, in the light, brought it forward against me, joined a fair issue betwixt us, and then I would have defended myself the best way I could. But to attempt to steal it in as evidence in this way, to prove a crime which he durst not openly libel, because he knew it could not be supported, merits the severest reprobation. But what is the tendency of this little art ? this domestic and well tutored spy, is brought to prove words

which may irritate your minds against me,---Yes, this is the artifice, this is its object, but your justice will render it ineffectual. You will feel the same contempt which I do. Let us pass from that---I contend upon the great principle of natural justice, upon the constitutional law of this country, that no person can be tried for a crime of which he has not been previously accused. What is the purpose of an indictment, but to specify the crimes which are to be proved, in order that the Pannel may have an opportunity to prepare his defence? Why is the indictment served upon him fifteen days before the trial, but to enable him to accomplish this purpose? It is vain to say, that under the general charge of sedition, every thing tending to prove it can be adduced, although not specially mentioned. If this is now to be adopted as law, what portion remains to us of our national liberties is for ever torn away. Every thing is insecure, an indictment will no longer be regarded, but as a piece of unmeaning paper. The unfortunate man who receives it may say, I am charged with robbery. I have many witnesses to prove I did not perpetrate this crime, but what avails preparing a defence? Not a single witness may perhaps be adduced against me for that offence. I may never hear a word of it in Court, but I may be instantly called upon to defend myself against a charge of murder, of sedition, or of high treason. In short, if, under the specious pretence of being allowed to introduce what is not specified in the libel to support its generality, you establish a precedent of this kind, you strike the fatal blow against individual security, and of general safety. What has been called the criminal law of this country, its forms, its precedents, and its principles, are for ever gone. It is vain to say that the statute of James VI. allows this proceeding. That statute is now obsolete. By the law of Scotland it has gone into disuetude. It was enacted under a despotic reign, when the freedom of Scotland was trampled under the foot of power. It opposes every principle of justice; and will you, after the lapse of so many years, descend into the grave, drag the pestilential carcase, in order that it may poison the po-



litical atmosphere?---One word more upon this subject: The charge against me is sedition. That crime, from its very nature, supposes, and, in fact, it has often happened, that it may be attended by rapine, and by murder. If, therefore, under the generality, you allow a charge of vilifying the Courts of Justice, which I never heard of before, you must, by the same parity of reasoning, allow a charge of plunder, equally unheard of, to be adduced as an aggravation of the general crime of sedition.

This question is of little importance to the individual, who is now struggling for the liberties of his country. But the eyes of your children will be fixed upon this trial, and they will tremble and shudder at the precedent. I feel for the country,---I feel for posterity,---I will not sanction the procedure which is to produce to both, a system of injustice, of ruin, and of murder.

LORD ADVOCATE said.---Mr. Muir is indicted for the crime of sedition, and that crime may consist of many facts and circumstances, and of these the strongest must be, feloniously and seditiously stirring up the inhabitants against a lawful King and a good Constitution: That, to prove this, he was entitled to bring in evidence every word of ~~my~~ conversation which might have passed betwixt Mr. Muir and ignorant people; every paper, every fact, and every witness which could be got: That no person could deny the relevancy of the fact, *viz.* the abusing and vilifying the Courts of Justice to be an aggravation of the crime of sedition; it is that crime of which the Pannel is accused, and he certainly would be permitted to bring forward every thing which could support the charge. If it had been necessary to specify, in the indictment, all the facts against the Pannel, that indictment would have covered, by its magnitude, the walls of that Court.

Mr. MUIR.---This is not the time to entertain your Lordships with frothy declamation, with sounding, but unmeaning periods. I pleaded upon just principles; every person here must see their strength, and must admit their truth.---If these are

given up, if these are violated, **PROPERTY**, and **LIBERTY**, and **LIFE** are insecure. Once more; can the Lord Advocate himself say, that if he was to bring the general charge of murder against me, and should specify that I had murdered James, would he be allowed to prove, under the generality, that I had murdered John? Can there be any thing more plain, more just, and which requires less argument than the simple proposition which I support? That if you accuse a man of a crime, you must tell him what that crime is, in order that he may be able to defend himself against the accusation. Particular acts must be specified, in order that the Pannel may be able to prove, that either these acts in themselves were innocent, or that he was not accessory to them. If you destroy this proposition, if you sanction the reverse, what remains to this country, but the melancholy prospect of ruin and of despair?

**LORD SWINTON** was of opinion, that reflecting on Courts of Justice was included under the general charge of sedition, and that the objection was groundless.

**LORD DUNSINNAN**, concurred with Lord Swinton, and declared, that the various circumstances which may come out in evidence need not be specified.

**LORD ABERCROMBY** could not entertain the smallest doubt of their being a necessity for specifying in the libel, every seditious expression that might have been used.

**LORD JUSTICE CLERK** was clearly of opinion, that when one crime is charged, another, and a different one cannot be proved under that libel. This none could dispute. But was that the case here? The Pannel is accused of sedition; and will any person say, that it is not a circumstance of sedition for the Pannel to have inflamed the minds of the people against Courts of Justice, so important, and so material a branch of the Constitution. Under the Statute of King James wherever art and part is libelled, the Prosecutor can prove every fact and circumstance, and no objection of generality is admitted.

The objection was over-ruled. The witness was called



back, who deponed: That she had heard Mr. Muir say, that a monarchical government would be the best in this country, under proper restrictions; but that republican governments were the best: That she has been sent by Mr. Muir to an organist in the streets of Glasgow, and desired him to play *ca ira*.

Mr. Muir was asked, if he had any questions to put to this witness. He replied; I disdain to put a question to a witness of this description. The witness turned round to Mr. Muir, and said she wished to ask him one question. This the Lord Justice Clerk would not permit, as he would suffer no altercation of that kind. The Court expressed their strongest disapprobation of the terms which Mr. Muir had used; and Lord Henderland said, that if Mr. Muir had been acting as a counsel at the bar, instead of being in that situation, he would immediately have sent him to prison for it! The conduct and the accuracy of this witness, was much applauded by the Court.

As the witness was withdrawing, a Juryman called her back, and asked her, if she had had any quarrel in Mr. Muir's father's family, to which she replied, that so far from that, her mistress had given her 5s. more than her wages, which were at her option, and that Miss Muir, had given her a petticoat, with some other presents.

#### THOMAS WILSON,

Depones, That the witness was in use to dress Mr. Muir, and dressed him in Autumn last: That Mr. Muir having asked the witness if he had bought Paine's Works; on being told that he had not, he advised him to get a copy, as a barber's shop was a good place to read, but he did not buy it. That he bought a copy of the Address to the Addressors, and kept it a day or two, but this was not by Mr. Muir's advice. That he remembers an old man from the country coming to Mr. Muir, when he was dressing him, and Mr. Muir told the witness, that the old man was a great reformer. Upon which the old man replied, that Mr. Muir was only taunting upon him.

Upon being interrogated by Mr. Muir, depones, that he has heard Mr. Muir say, that he would maintain the Constitution: That he wished for peace and good order, and good morals among the people; and that he never heard him say any thing against the King: That he has seen Mr. Muirs' Library in the country, which is a large room open to all the family.

The LORD ADVOCATE stated to the Court, that he was informed that William Muir, the person committed to prison, was a parishoner of the Rev. Mr. Dunn's minister of Kirkintilloch, one of the witnesses inclosed against the Pannel. That if Mr. Dunn was allowed to converse with him, he might remove his error, and preserve him from suffering the dreadful punishment due to his obstinacy. He therefore moved their Lordships to allow Mr. Dunn to converse with William Muir for the purpose.

Mr. MUIR opposed the motion.---He said, he had already consented, and would still consent to admit the declaration of William Muir against him to be true, although not accompanied by an oath. To prevent the witness from suffering any punishment, he would surrender the right which the law gave him; but, that he certainly would object to conversation betwixt that witness and Mr. Dunn: Not that he suspected any thing improper to take place in that conversation, but that this was a great and important cause; a trial that might create precedents dangerous to those who might come after. By the law of Scotland all witnesses must be examined apart from each other. The law is jealous of their conversation: The law dreads their collusion, in framing together a consistent story. If, in this case, you allow Mr. Dunn and the witness, of both of whom I have no suspicion, to converse together, you cannot refuse it to others. It will be sufficient for two witnesses, who may have an interest in a trial, to play the same concerted game, in order to tell the same concerted story with more accuracy, and with greater safety.

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Mr. Dunn as a witness, and that the conversation should proceed in the presence of an officer of the court, or of some person on the part of Mr. Muir.

Mr. Dunn was called in. He was ordered to converse with the witness in presence of one of the macers; enjoined not to speak on the subject of the trial, but solely about the witness's scruples to take the oath.

#### JOHN MUIR,

Deponed, That he knew Mr. James Muir's father; and that he saw Mr. Muir at his house in September: That Mr. Muir and he had a conversation about Mr. Paine's book; when he asked Mr. Muir, as a favour, to get him it; when Mr. Muir said, he had it not, but would send for it; and that a servant girl was accordingly sent for it, and said she had purchased it at Brash and Reid's, Booksellers, in Glasgow; that he read it and took it home with him, but that he would not have bought it, if he could have got the loan of it.

#### JOHN BARCLAY,

Deponed, That he is acquainted with Mr. Muir; that he had a conversation with Mr. Muir about Paine's book: That he asked Mr. Muir what book it was, when he answered, that he might buy it, if he chose, as it was printed; but afterwards said it was not a book for us.

Upon Mr. Muir's interrogation, deponed, That he is an elder of the parish of Calder, and that he voted on the same side with Mr. Muir, in the election of a minister; that, in consequence of this, he was frequently with Mr. Muir; and, in his library, from which he borrowed some books; that he had many conversations with Mr. Muir, and heard him say, that this constitution was an excellent one, and the best in the world; that he has heard him praise the King, and always heard him speak of order, regularity, and obedience to the ruling powers; that he called upon Mr. Muir since he came to Scotland, who sent down a message that he

could not see him, as he would have no correspondence with any who might be cited against him as witnesses on this trial, until it was finished.

### JAMES CAMPBELL,

Deponed, that he was present at a meeting of the Convention; that he called there on his way home from the Parliament House; that Mr. Muir was not there, but came in soon after and read a paper, which, being shewn to him, he admitted to be the same with the Address from the Society of United Irishmen of Dublin; that Colonel Dalrymple opposed the paper being read, and talked of taking a protest; that, after Mr. Muir read it, he said nothing more; but, before he read it, he spoke of answering it; but, in this, there was no vote taken; that he does not know how the paper came, and that a copy was afterwards sent him in a blank cover. Being interrogated whether the purport of Mr. Muir's speeches approved or not of this paper, says, he knows nothing more than that he proposed its being read and answered. Depones, That it was assigned as a reason for not receiving the Address, that they had no connection with it; that Mr. Muir thought there was no impropriety in receiving and answering it, and would take the burden on his own shoulders.

### JAMES DENHOLM,

Deponed, That he was present at a meeting of the Convention in December; that Mr. Muir was there, and he heard him read that paper, called the *Irish Address*: That objections were made to its being read, and Mr. Muir answered, that he saw no harm in it. Colonel Dalrymple protested, and he believes, Mr. Bell did so also; but he does not remember Mr. Morthland being there; that he thought it possible it might be illegal; that he saw it on the table, but does not know whether Mr. Muir brought it or not; that he understood that Mr. Muir moved, that an answer should be sent; that this was dissented to, but



he does not recollect for what reason, and he thinks that it carried, *Not to be sent*. The Address being shewn to him, he admitted it to be the same which he had formerly signed.

Being interrogated by Mr. Muir; deponed, That he never heard him say any thing unconstitutional; that the purpose of the Association was to get a Reform in Parliament; that he knows of no other object, but that he understood their object was an alteration, and that he was not a member of the Convention,

#### ROBERT FORSYTH,

Deponed, That he was present at a meeting of the Convention; that Mr. Muir was there, and read a printed paper; that there were some objections made to the reading of it; that the witness himself made one, which was, 'That it was not expedient to have any connection with others;' that it was a paper which we ought not to have any thing to do with; that it was a paper containing some expressions too strong, such as, 'an inviolable constitution was a tyranny,' that Mr. Muir defended the paper, and said, it should lie upon the table.

Upon Mr. Muir's interrogatories, the witness thinks the Convention came to a resolution to adhere to the genuine principles of the Constitution; that the object was to reform the elections, and shorten the duration of Parliament; that Mr. Muir never advised any deviation from the constitution; that he never heard him speak ill of the constitution, but that he heard him advise order.

#### WILLIAM MUIR.

The scruples of this witness having been removed; he was brought to the bar, and consented to take the oath. Deponed, That he was twice present in Wallace's house in Kirkintilloch, once before the society was formed, and once along with Mr. Muir; that Freeland was there, and Wallace; that, at this meeting, a copy of Paine's Works was taken out of the great-coat pocket of Mr. Muir; that he

does not remember what was said about the book ; that he is not sure that Mr. Muir spoke of the will of the people being the sovereign will, but that it was said Paine said so ; that he got eleven copies of the Patriot, and a copy of the Political Progress ; that he got them from Mr. Muir in his father's house, at Huntershill, who bade him keep them, and to shew them to a society he was in, which was a society for the purpose of purchasing and reading books.

Being interrogated by Mr. Muir ; depones, That he does not remember to have heard him speak against government ; that Mr. Muir did not advise unconstitutional measures ; that he heard him speak about the government ; that he heard him tell how Sarum was represented.

The Lord Advocate caused the sentence of fugitation against Mr. Muir to be read, [which is annexed in the Appendix] and afterwards proposed to prove the Declarations before the Sheriff, and the papers that were found upon Mr. Muir when before the magistrate at Stranraer. In order to save time and trouble, Mr. Muir agreed to admit them without proof, but under this express condition, that none of these papers should be used in evidence against him of any criminalty.

If these papers, said Mr. Muir, had afforded any weighty discoveries of my guilt, the Indictment should have so stated. It was impossible that these papers could afford the smallest presumption against me, and therefore there is not a single article of the Indictment alledged that they were of a culpable tendency. It is indeed asserted in the libel, that these papers were found upon me ; but that they are of a felonious or a seditious tendency, is no where set forth. In the concluding proposition of the Indictment, in which the whole criminal charge is recapitulated, these papers are passed over in silence. In proof of this permit me to read the conclusion :

“ AT LEAST, times and places above mentioned, the  
“ said seditious speeches and harangues were uttered, the  
“ said seditious books or pamphlets recommended to be



“ purchased and perused, the said seditious books or pamphlets circulated and distributed, as aforesaid, and the said wicked and inflammatory address produced, read, recommended, and approved of, in manner above mentioned ; and the said Thomas Muir is guilty actor, or art and part, of all and each, or one or other of the foresaid crimes. ALL WHICH, or part thereof, being found proven, by the verdict of an assize, before our Lord Justice General, Lord Justice Clerk, and Lords Commissioners of Justiciary, in a Court of Justiciary to be holden by them within the Criminal Court-house of Edinburgh, the said Thomas Muir OUGHT to be punished with the pains of law, to deter others from committing the like crimes in all time coming.”

The Lord Advocate in reply stated, that he was entitled to bring forward every circumstance which could criminate the Pannel, although these circumstances were only collateral, nor in issue or necessary in the conclusion.

*[The Clerk of Court accordingly read, the declarations, the passports, and the other papers, which are annexed in the appendix.]*

When the Clerk of Court proceeded to read the letter signed J. Muir, the Pannel arose, and said, That he saw it was vain for him to make any objection, however strong it might be in law, it was sure to be over-ruled ; but every mind tinctured with humanity, would shrink at the wanton disclosure of the anxiety, and the grief of a private family ; especially when the Prosecutor had himself admitted, that the papers which he had read and proposed to read, were not necessary to the conclusion of the libel.

The LORD ADVOCATE stated, that his conduct proceeded from no idle curiosity, that the letters found upon Mr. Muir would completely do away the assertion of his anxiety to return home, and prove the guilt attending his flight.

I am convinced, said Mr. Muir, of the reverse. I gladly join issue with the Prosecutor, and consent to these letters being read.

After the papers subjoined in the Appendix, had been read, the Lord Advocate declared the proof finished on the part of the Crown, and Mr. Muir commenced his proof in exculpation.

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*PROOF IN EXCULPATION.*

WILLIAM SKIRVING,

Depones, That it was thought proper that Mr. Muir should attend a meeting of the Friends of the People in London; that on this account he left Edinburgh, and went to London in January last; that he received a letter from Mr. Muir, dated from London, mentioning that he had appeared in the Society at London, of which Mr. Grey is a member, and giving an account of what had been done there; that owing to some late circumstances which occurred in his family he cannot at present find Mr. Muir's letter, but that, according to the best of his recollection, he thinks, Mr. Muir wrote him, he was advised by some friends to go to France, as he might have some influence with the leading people, in mitigating the fate of the King; that while Mr. Muir was at Paris, he received a letter from him, giving an account of the execution, and that Mr. Muir mentioned in that letter, that he would return as soon as his friends should be of opinion his presence was necessary in Scotland; that he has been frequently with Mr. Muir in private, and has often heard him speak in public, in the Societies; that he never heard him speak against the constitution, advised the people to disorder or sedition, but that he always inculcated upon them, that there was no other mode of obtaining the proposed reform than by applying to Parliament by respectful petitions; and that Mr. Muir never submitted to his consideration any plan of government; that the general tenor of Mr. Muir's Address to the People in the Societies,



was to impress upon their minds the necessity of good order, and that before they attempted public Reformation they should begin by reforming themselves ; that he does not believe Mr. Muir is connected with any Society, abroad or at home, for the purpose of exciting sedition ; that he never heard Mr. Muir speak against the monarchical part of our constitution, and that he has been in his company in his most unguarded moments ; that he remembers a private conversation with Mr. Muir, in which he disapproved of many of the principles in Paine's book, and both agreed that many of them were impracticable ; that he was happy to find the Pannel of this opinion, and he then told the Pannel, that he had written on the subject, and proposed to give lectures on government ; that Mr. Muir approved so much of the proposal, that he informed him that, for himself, he would dispose of eighty or a hundred tickets.

Upon the interrogation of the Lord Advocate, if he was not the person who had designed himself, on a late occasion *Secretary General* to the Association of the Friends of the People ;---answered, That it was a mere mistake in writing out the Petition, for he was Secretary to the General Association of the Friends of the People.

Being interrogated by Mr. Muir, if he remembered the tenor of the answer which he proposed in the Convention to the Address of the Society of United Irishmen in Dublin, depones, That he cannot recollect.

#### JAMES CAMPBELL,

Depones, That in the beginning of last winter, he acted as agent for Mr. Muir ; that while the Pannel was in France, he received from him two letters from Paris, which he produced, and likewise had received another from Calais, upon which at present he could not lay his hands. These two letters were read by the Clerk of Court, and are subjoined in the appendix. They expressed Mr. Muir's willingness to return home whenever it should be necessary, but at the same time his regret for so soon leaving an amiable set

of acquaintances, with whom his friendship was just commencing.

Upon the Pannel's interrogatory, he depones, That he never heard him attempt to excite the people of the Societies to sedition or outrage ; that he exhorted them to avoid riotous conduct, to behave orderly, peaceably, and, above all, to attend to the moral characters of those whom they admitted members ; that he also remembers Mr. Muir's opinion of Mr. Paine's book was, that it might be dangerous for people of weak minds.

#### JOHN BUCHANAN,

Depones, That he has often heard Mr. Muir speak in the Societies ; that he never advised sedition, riot, insurrection, nor unconstitutional measures, but, that they should act peaceably and orderly ; that he said, the constitution ought to direct all their applications to Parliament ; and, that he used to say in conversation, that the constitution ought to be to us the polar star, and that we should begin our Reformation by first erecting among ourselves the temple of morality ; that he had more sense than to think of procuring a redress of grievances by any other than constitutional measures ; and that he does not remember of hearing him give any opinion upon Paine's books.

#### WILLIAM JOHNSTONE,

Depones, That the principles of Mr. Muir were firmly for supporting the constitution as it stood at present ; and that all the other principles, held by him, grew out of this one ; that Mr. Muir never advised tumult, but recommended sobriety, and said, that nothing would do but an application to Parliament by way of a Petition ; that it is inconsistent with his knowledge that Mr. Muir circulated any books or pamphlets ; that while Mr. Muir was in France, he received from him one or two letters upon general subjects, but that he remembers Mr. Muir expressed in them his intention of returning home ; that he had sought for these letters but could not lay his hand upon them.



## MAURICE THOMSON,

Depones, That he once heard Mr. Muir in a society of the Friends of the People deliver a speech, but does not remember much of it ; that he heard him speak about reform, measures which were constitutional, and the necessity of being moderate, and never heard him advise the people to excite disturbances.

## CHARLES SALTER,

Depones, That in societies he has heard Mr. Muir speak three or four times ; that he exhorted them to constitutional measures, peace, and order.

## PETER WOOD,

Depones, That he has heard the Pannel speak in societies, and impress upon them the necessity of petitioning the House of Commons ; that he never heard him speak against the King or House of Lords ; that he never saw him distribute any books or pamphlets ; and that he heard him say ; no members should be admitted into the societies who were inclined to faction.

## DAVID DALE, JUN.

Depones, That he has seen Mr. Muir at the Star Inn at Glasgow, in meetings of the Friends of the People ; that he remembers a motion was made, that books should be recommended to the society ; that this motion was opposed by Mr. Muir, who argued, that most books were written too much in the spirit of party ; that no truth could be got from them, and that the only way to procure knowledge was by general reading ; that he advised the people to inform themselves on both sides of the question ;---to seek reform by measures calm and constitutional ; and that they had no other mode of obtaining it than by petitioning Parliament ; that he never heard him say any thing which had a tendency to excite sedition ; and that he always advised the people to be quiet and orderly ; that he never knew of

his distributing books, or recommending Paine's Works ; and that he advised the Friends of the People to expel any member who might behave seditiously or disorderly.

Being interrogated by the Lord Advocate, depones, That it was at a meeting of the Friends of the People, at the Star Inn, that he heard Mr. Muir oppose the recommending of particular books ; that he does not recollect the particular month when this occurred.

Being interrogated, if he recollects when Mr. Muir was first apprehended, depones, he could not precisely. Being asked, if he thought it was in the month of January, or in any of the succeeding months ; depones, he could not be positive, but thinks he might have heard it about five months ago. Upon which the Prosecutor observed, he had a very short memory ; to which the witness assented.

#### WILLIAM RIDDELL,

Depones, That Mr. Muir always advised peaceable and constitutional measures ; that he does not remember of hearing him recommend any books in particular ; that he never saw any disorder in the meetings of the Friends of the People, and that he does not recollect Mr. Muir's advising to petition Parliament.

#### WILLIAM REID,

Depones, That he is a bookseller in Glasgow, and acts in the company under the firm of Braith and Reid ; that he remembers to have asked Mr. Muir's opinion about the propriety of selling Paine's book ; that Mr. Muir said it was an improper book, and that in selling it there might be danger.

Upon the interrogatory of the Prosecutor, depones, that Mr. Muir gave him this advice a few days before Mr. Honeyman, the sheriff of the county, came to take precognitions concerning that book.



## GEORGE WADDEL,

Depones, That he has been at meetings of the Societies of the Friends of the People in Glasgow; that at one of these meetings, he remembers Col. M'Leod and Mr. Muir being present; that when a motion was made for recommending particular books, both Col. M'Leod and Mr. Muir opposed it, as in most books there was too great a mixture of truth and falsehood; that the only books which he remembers them to have recommended, were, Blackstone's Commentaries upon the Laws of England, and Erskine's institutes of the Laws of Scotland; that Mr. Muir advised moderate measures; that this was the continual subject of his discourse; that he said he would glory to have the table of the House of Commons covered with petitions; that he spoke to Mr. Muir about an address of congratulation to the French, in imitation of Dundee, but that Mr. Muir disapproved of it.

## JOHN RUSSEL.

After this witness had been sworn, the common question was put to him, if any person had instructed him what to say, He answered; None, except to tell the truth. Being asked who instructed him so. He replied, he could point out no person in particular, but that it was the general advice of all to whom he spoke. He was obliged to produce his summons to be a witness, and it appeared that the citation had been given him four days only before his examination. He was informed by the Court, that any who spoke to him, must have done so in the interval of these four days, and that therefore it was impossible that he could forget all their names. The witness replied, that the general instruction to *speak the truth* was so common, that he could not remember at present, any particular person who had given it.

The LORD ADVOCATE moved, That the witness should be committed to prison for prevarication!

Mr. Muir arose, and attempted to speak in defence of

the witness, but as he was beginning, was interrupted by the Court, who commanded him to sit down, as he had no right or title to interfere in the business.

LORD HENDERLAND gave his opinion: Every appearance was against the witness; that he wished to conceal the truth; that he merited punishment, and should be committed to prison for a certain period.

The rest of the Judges concurred with Lord Henderland; and Mr. Ruffel was committed to prison for the term of three weeks, as guilty of concealing the truth upon oath.

### JOHN BROCK,

Depones, That he was at one meeting of the Friends of the People, in the Star Inn at Glasgow, where he heard Mr. Muir recommend adherence to the Constitution, and to good order, and that he declared, he would leave the Friends of the People, if ever they should proceed to riotous measures; that he has heard him speak of books of the Law, but cannot be positive to any in particular, only, he thinks he remembers to have heard him mention a work of Mr. Locke's.

### WILLIAM CLIDDESDALE,

Depones, That he never joined himself to any Society of the Friends of the People, but that he is a member of the Society in Glasgow, for the Reform of the Boroughs; that about the 13th December last Mr. Muir, when the witness was present, visited that Society, said that the Borough Reformers had made great exertions; recommended to them perseverance, firmness, and measures which were peaceable; that he did not exhort them to riot or insurrection; that he remembers of hearing Mr. Muir observe, that some things in Paine's book were extremely good, and somethings impracticable; that he heard him run down Liberty and Equality, as it implied violation of property, and assigned, that a division of property was a chimera which never could exist.



## GEORGE BELL,

Depones, That in the Society of the Friends of the People at Glasgow, he has heard Mr. Muir speak, and that he has heard him declare that he would admit no members into the society, but such as acknowledged the King, House of Lords, and House of Commons; that he never heard him speak against the Constitution, and that he did not recommend any books in particular, but only such books in general as would inform their minds, and render them better members of Society.

## REV. DANIEL M'CARTHUR,

Depones, That he remembers to have had a conversation with Mr. Muir in the Coffee Room at Glasgow, in the months of September or October last; that he saw Mr. Muir and another gentleman walking together; the gentleman having gone away, Mr. Muir came up to the witness, and said, that the person with whom he had been, was Chairman of the Society of the Friends of the People in Edinburgh; that the witness said to Mr. Muir, Do you not think this a wrong time for to insist for a Reform in Parliament? To which Mr. Muir answered, That he thought it a proper time, as the country enjoyed the blessings of peace, that there was no comparison betwixt this country and France; that in France, they had sought a revolution, and had brought it about, but that in Britain we wanted no Revolution, but only a moderate Reform.

## JAMES M'GIBBON,

Depones, That he was a member of the Society of Reform in Campsie; that Mr. Muir came there, and that he did not recommend any books in particular, nor did he speak against the King, House of Lords, or House of Commons.

## ROBERT HENRY,

Depones, That he is a member of the same society with

the preceding witness; that Mr. Muir came there; that he spoke of no books in particular, and heard him say nothing against the King, Lords, and Commons, but that he recommended peaceable measures.

WILLIAM ORR,

Deponed, That Mr. Muir and Colonel Dalrymple came to Paisley; that in the company of the witness they visited, and addressed the different societies of the Friends of the People there; that Mr. Muir, in his speeches, inculcated a firm attachment to the King and Constitution; that he recommended peace and regularity, and reprobated riot and sedition; that he exhorted the people to be steady, and to pursue their object by all legal means; that after having gone through the different societies, Mr. Muir, Colonel Dalrymple, and the witness, went to Sinclair's Inn, in Paisley; that in the course of private conversation, he heard Mr. Muir say nothing against the King and Constitution, but that he heard him say, that the King was the best of princes.

JAMES CRAIG,

Depones, That in the societies of the Friends of the People in Paisley, he heard Mr. Muir declare, that the Constitution was a good constitution, and that the King was the friend and father of his people.

JAMES RICHARDSON,

Deponed, That he is a member of the same society of the Friends of the People in London of which Mr. Grey is a member; that he is not a member of any society of the Friends of the People in Scotland, but that he was present at a meeting of the Friends of the People in Glasgow, when he heard Mr. Muir exhort the people to keep by the Constitution, and that if any of them were against it, they should be expelled; that in a masterly manner, he exposed Liberty and Equality if it implied division of property, and



that he said such a system was totally impracticable, and he used every argument to excite the people to keep to the Old Constitution.

Mr. MUIR now declared, That he had finished the proof in exculpation; that it was in his power to adduce many more witnesses, but that he deemed it totally unnecessary.

The LORD ADVOCATE then rose and addressed the Jury,

*Gentlemen of the Jury,*

It is my duty, now, to require your most attentive and deliberate consideration of what you have heard. The moment is come, when the truth or falsehood of what is laid to the charge of the Pannel at the bar, is to be ascertained. He is a man, who, under the pretext of a reform, as I shall afterwards shew you, has been sowing mischief and sedition; he appears here before you, after being a fugitive from his country; and it is now that by your verdict, a verdict which is uncontrollable, and from which there is no appeal, his guilt must be established, or the imputation thrown out against him, completely wiped away. It is a moment which I have long wished to see; for during the circumstances which occurred last winter, among the numerous list of offenders who appeared, this is the man who of them all appeared to me the most criminal, and whom I most wished to lay hold of; he in every thing betrays a most decided spirit against the Constitution, and all under the veil of Parliamentary Reform.

This country has seen many instances of pernicious effects of seditious writings and conduct, but I am persuaded a wider range of diabolical mischief will appear in this man, than ever was seen in England, or any where else.---Who could believe that a man of a liberal education, an Advocate at this bar, could be found among villagers, and manufacturers, poor and ignorant, for the purpose of sowing sedition and discontent?

The charges against the Pannel are divided into three

heads, all centering, however, in the general charge of exciting sedition and discontent, by various steps of conduct. He has circulated Paine's Works, a book which one of his witnesses says, he declared to be dangerous to weak minds, with an obstinacy and pertinacity, which plainly indicated that his wish was to alter or overturn the Constitution. He went to Kirkintilloch and Campsie, carrying Mr. Paine with him, and advised the constituting of meetings, which, without him, would never have been established; he came like the dæmon of sedition, recommending that club government, which has produced all the anarchy we see in France, and which cannot be supported in any well established government.

He has been in a convention of people, calling themselves Reformers; but the spirit of the people shewed itself, and it no longer exists: he in that meeting endeavoured to support and defend a paper coming from our sister kingdom: It came from the Society of United Irishmen, highly seditious, if not treasonable; and yet he was the ringleader to produce, to read, and approve.

These three charges, then, Gentlemen, which unite themselves in one, that of exciting discontent against Government, have been brought with deliberation; and, it is now my duty to shew you, have been established by the evidence.

I wish to have the opinion of a respectable Jury on the subject. Whether sedition is a crime of the detestable nature I represent it? I bring forward the arm of justice to suppress it; and it is in your power to invigorate it, or palsify it in a moment.

Gentlemen, as the charges are threefold, the evidence must be of three kinds. I shall speak of each in their order, and I must say, that if ever a strong body of evidence appeared in a difficult case, it is to be seen here.

The first charge is, making seditious speeches and harangues, and encouraging improper meetings. To support this, we find that he went to Kirkintilloch and Campsie,



and recommended improper publications to enlighten their minds ; but in this he does not appear to have been very successful, if we take the Vice President as an example of their influence. The evidence here rests chiefly on *Johnston* and *Freeland*, particularly *Johnston*, and we should remark the mode in which he gave his evidence, he was calm, accurate, and clear. *He* and *Freeland* agree that the *Bannel* spoke of the success of the French arms : With what motive could he discourse on such a subject to weak, uninformed, illiterate people, but to fulfil his seditious intentions ? He talked of the weight of taxes. Gentlemen, we may see these burdens lightened ; but if this gentleman's mode of doing it were to go on, what sort of relief we should have by the diminution of our taxes and the payment of our debt, are topics of which you will judge as you ought to do. He said that their taxes would be less, if they were more equally represented, and that from the flourishing state of France, they could not bring their goods to market so cheap as Frenchmen. What could possibly be more calculated to produce discontent and sedition ? Had such societies previously existed, the case would have been different ; but he appears as the ringleader, he was there on the Tuesday preceding, conversing about it ; he came to the meeting and harangued them ; he adjourned with them afterwards to *Wallace's* : Can any evidence be more connected or more clear that he was the main instrument ?

The second charge is the circulating seditious books, containing the passages libelled in the indictment, which you may read. *Freeland* is again an evidence here ; and I must observe, that it appears to be doubtful, whether he told all he knew ; from his face he plainly prevaricated ; and, when closely questioned, the sweat broke upon it. He told you the story of getting *Paine's* book out of *Muir's* pocket. I may here observe, that such a mode of circulating a book is that which a man in his situation will naturally adopt ; he will not go on openly, but privately, and under various pretexts ; by his fruits must you know him ; you

must compare his actions with his professions, and then judge.

We have evidence of his recommending and buying the Paisley Declaration and other books, which go to prove he is tainted from head to foot, and is as unworthy to live under the protection of the law as the meanest felon.

You would observe his conduct, Gentlemen, on Anne Fisher leaving the foot of the table. What can be laid to her charge? her evidence was clear and correct, and was founded on the best basis, her's being confirmed by the testimony of others. But what was his conduct? the only thing, indeed, which he could do,—an endeavour to shake her testimony by an illiberal and unfounded insinuation, that we procured our information only from domestics.

To what then amounts her testimony, which stands beyond a doubt: That she was sent repeatedly from her master's house, the Pannel's father, who I understand is a respectable man; far be it from me to attach any criminality to him; the Pannel has the miserable reflexion that the distresses which have embittered the lives of his parents have been brought on by himself;—that she was sent repeatedly to buy Paine and other works for country people that came into the shop, who by this man's persuasion must out with their miserable sixpence to purchase *Paine's Rights of Man*; that he used constantly to be reading seditious publications in the back shop.—It was there, in that cathedral of sedition, he sat like a spider, weaving his filthy web to catch the unwary.

The witness specifies the people to whom he procured Paine's book—his own uncle, John Muir the hatter, Barclay the elder, and Wilson the barber. I have produced all of them in support of the girl, except the uncle, whom I declined making an evidence against his nephew. He advised Wilson, who completely supported the girl in this, to keep a copy in his shop to enlighten his customers minds; for that it confuted Burke entirely,---Mr. Burke, a man



whose wonderful talents and genius have lately been so much exerted in the service of his country.

From these circumstances I have only to desire you to look at Paine's book, at the passages in the indictment; and if you are loyal to your king, if you are loyal to your country, and would preserve it, you will find this man guilty, who has given so decided an opinion in favour of that wretched outcast. His works I never read till my official duty compelled me to it; I need not give my opinion of it; the determinations of courts of law, and the unanimous opinion of the country, have marked the detestation in which they are held.

[His Lordship here read some of the passages in the indictment.]

What avails then, Gentlemen, all this evidence of attachment to the king and constitution, when he unequivocally approves sentiments such as these? We are told, indeed, by one of his witnesses, that he advised him not to sell Paine; but unfortunately the answer given to the question put to him upon his cross examination, proves that they were not his real sentiments, but for fear of danger, as the book began to be taken notice of.

We find from the evidence of the girl Fisher, that the very organist could not pass the house of this oracle of mischief, without being desired to play *ga ira*.

He used to say too, that, if every man had a vote, he would be member for Calder, and members would have thirty or forty shillings a-day. All these circumstances go to prove incontestibly, that France and French principles were continually in his view, and that he aimed at the destruction of the present government; with respect to which, however, I hope his prophecies will be as false, as they have already been in regard to the success of the French.

I may here remark that the evidence of Fisher appears in a trifling instance to be contradicted by the elder Bar-

day ; but you should remember the salvo with which that old gentleman chose to premise his evidence.

I come now to the third charge, which relates to Mr. Muir's conduct in the Convention. It is here incontestibly proved, that he read, approved, and defended, the Irish Address. Will you approve this paper ? Will you disregard this convincing proof of his guilt ? Be his studies ever so great, be his views ever so extensive, will you permit him arrogantly to set up his seditious opinions in opposition to the government and constitution ? His conduct in some instances would almost appear to be marked with insanity, were we not finding him the determined ringleader in an uniform scheme of sedition.

This, Gentlemen, finishes my remarks upon the evidence ; upon the evidence which I think is invincible ; but there are two topics on which I must beg to make some observations.

Mr. Muir told us, that he was carried out of this country by business of importance, and that he was detained in France ; and that he always wished to have a trial. I could have no objections to his proving this : It would have argued some degree of honour. But his professions are false and confuted. He left this country under an impression of guilt ; and lately returned, the pest of Scotland, with the same intention as before.

The reason of his going to France, it seems, was the influence he might possibly have in saving the life of the King of France ; and he was sent there by the Friends of the People. Never was I more astonished than at the impudence of this evidence. Did Skirving know or recollect, that he was almost accusing him of high treason ? But why was he interested in this event ? It was an event, as his witnesses tell you, that would hurt the common cause.--- What cause ? their intention of effecting a change in the government of this country : There then he stands a missionary from a society in this country to France,---a circumstance which greatly confirms his guilt.



When the trial was coming on, I postponed it longer than I ought to have done, to give him every chance ; and I inserted it in the papers, which might perhaps reach him roaming in some part of the world.

The shipmaster's receipt bears date the 16th May. What became of him from this date to the 31st July when he was apprehended. He informed nobody of his coming home. How wonderful that no letter was driven by the winds or impelled by the waves, to give notice of what he says was his earnest wish. The reverse in fact appears to have been the case. By the Letter of J. Muir, his father, we find him in Ireland, doing we know not what ; except what we learn from the diploma of the worthy society of United Irishmen. He is at last apprehended returning into this country, with all the insignia of sedition about him.

I have but one remark more. You may in some degree judge of a man, by the company he keeps : amongst Muir's papers we find a letter here in my hand addressed to the Rev. *Fishe Palmer*, a man who is indicted to stand trial at Perth, in the course of a few days, and whom most of you must know. The impression of the seal too is worth remarking, a *cap of liberty on a spear*, and under is the motto *ca ira*. I beg your attention, Gentlemen, to the quotation I shall now read from a celebrated French author, in treating of the British Constitution. [The passage his Lordship read, was from *De Lolme*, on the Constitution of England, from the middle of p. 534, to the end.]

I hope, Gentlemen, this case will be viewed by you in a light such as this, that you will protect your King from the attacks of his enemies, that you will protect this temple of freedom from the attempts of the factious, but particularly against that man at the bar, who, has been sowing sedition with so liberal a hand. You now, however, may seize him in his career, and by your verdict do justice to your country, and honour to yourselves.

The Lord Advocate here finished his address to the Jury. —He spoke two hours and ten minutes. We are sorry,

that our present situation has precluded us from stating his Lordship's speech at full length, but the foregoing embraces the most material parts and corresponds exactly with what we have already seen published, and announced to be "a comprehensive, and in many parts, a literal abstract of the most material parts of his Lordship's speech."

Mr. Muir then addressed himself to the Jury as follows :

*Gentlemen of the Jury,*

I rise, in my own defence.—All that malice could devise; all that slander could circulate; has been directed against me. I speak with joy, and with triumph. After an investigation into my public transactions, and into my private conduct, the most minute and the most unexampled, which ever occurred in this country; my *moral character* stands secure and unimpeached. With the anonymous, the worthless, and the paid assassins of public reputation, I disdained to enter the lists. 'To this *day* I looked forward with expectation; when before you, in the presence of Scotland, I should not merely remove the suspicion of guilt, but should demonstrate my innocence. I will not imitate the example of the Public Prosecutor, who has finished his pleading. Sounding, and unsubstantial declamation is unsuitable for you, and it is unworthy of me. This is not an hour to temporize. The eyes of this country are fixed upon us both. The records of this trial will pass down to posterity. When our ashes shall be scattered by the winds of heaven, the impartial voice of future times will rejudge your verdict. Let faction rage;—let the spirit of party, in the present hour, proudly domineer.—The illusion will soon vanish away. In solitude the power of recollection will assume its influence; and then, it will be material to you, whether or not you have acted uprightly, or sinned against your own eternal conscience, in my acquittal, or in my condemnation!



Before I enter into a particular vindication of myself, let me take notice of two circumstances, strongly insisted upon by the Public Prosecutor, which have little relation to the general nature of the evidence which has been adduced.--- Long, indeed, has he harangued upon them; and has concluded his speech by exhibiting them in every shape which his imagination could invent. He maintains, that a consciousness of guilt obliged me to leave this country after an information had been filed against me, and after I had been examined by a magistrate. I will admit the fact of my departure.—In these days—in these circumstances—is that to be ascribed to conscious guilt alone? If the whole strength of arbitrary power is extended against an individual, is there merit in exposing himself as a sacrifice which cannot be useful to the country, and which may only present posterity with a new addition to the immense catalogue of the victims of despotism.—If two motives had only existed to which you could assign my departure, you are bound to ascribe it to the most charitable.—But what were the circumstances attending my departure? Did they bear any resemblance of a flight? Did I not publicly announce it the preceding evening in a numerous meeting of citizens? Did I not cause it to be published in a public paper? Did I affect the garb and disguise of concealment? In London, did I remain in obscurity? Did I not appear in a distinguished Society, the Society of the Friends of the People? And did not that Society publish afterwards a resolution, announcing in its preamble my presence among them?

But I went immediately afterwards to France. Mr. Skirving, who was examined with regard to a letter he received from me, before my departure from London, has said, in his evidence (and his words I have accurately in my notes,) that I proposed to go to Paris, as it was the advice *OF SOME FRIENDS*, and might be of some service in mitigating the fate of the late King.

The words of Mr. Skirving, “*SOME FRIENDS*,” have been *curiously* represented.---It is stated that these “*some*

"*friends*," must have been the members of that truly respectable Society; and it is boldly argued, that I went to France as a Missionary from that body. Nothing can be more ridiculous.---Nothing can be more injurious.---Mr. Skirving never said so!---No person can, or *dare*, say that I ever went as a missionary, delegated from individuals, or by Societies, to any foreign power. Building then upon this unsubstantial basis of words, never uttered in evidence by Mr. Skirving, nor which ever could possibly be uttered, I am accused of a species of high treason, in corresponding with a foreign power without any legal authority from home. The charge of corresponding with foreign power is equally ridiculous with the misrepresentation upon which it is founded; but let it be considered as serious, I *dare* the proof.

I challenge the Prosecutor to adduce the smallest vestige of evidence.

Yes; I will admit, I wrote to Mr. Skirving, my intention of going to France; nor will I deny the motive. I saw, in the execution of the late King, a specious pretext to plunge the country in war, and to extend the effusion of *human blood* to every corner of the world! I may have erred. I may have acted from enthusiasm; but it was enthusiasm in the cause of man. If, at the period when it was free to every person to publish their sentiments upon that awful question, I wished likewise to publish mine, can that be imputed to me as a crime? Can the intention of pleading the cause of mercy, of individual and of general humanity, be construed into guilt? If it can, I am then guilty. Has not the Prosecutor lamented that disastrous event? And will he accuse a man who wished to prevent it? Who, with many friends to humanity, of every nation, and of every party, in private, in public, in conversation, and from the Press, exerted their abilities to ward off an event which they foresaw was to introduce years of blood and of sorrow! But allow, that at first glance, my departure from Scotland; my journey to Paris, afforded a pre-



sumption of guilt ; that presumption is obviated by my RETURN.

The Prosecutor has boasted of his humanity, in granting me the delay of a few weeks, by postponing my trial, in order that I might return from Paris.---But was *he* ignorant that hostilities at *that time* were commencing---that the communication was closed ; that it was tedious and difficult to procure passports. Of that difficulty no person here can possibly have any doubt.

Do not all my private letters, which have this day been read, prove my uneasiness upon account of the delay, and my anxiety to return ? But, at the period when I procured my passport, the flames of war were blazing over most of Europe---I knew only two ways by which I could possibly return home. The first, by the way of Hamburgh ; the second by the longer, but the more certain circuit of America.---I adopted the latter, as more safe, and less liable to interruption.---I left Paris.---I went down to the port of Havre-de-Grace. I found a vessel which was to sail for New York.---The receipt found in my pocket book, when I was stopped upon my landing in Scotland, from the master of that vessel for the payment of my passage, proves that I had actually taken my passage in that ship. That vessel, in taking in her freight, and by an embargo, was detained for near three months.---In this interval, another American ship, the Hope, of Baltimore, arrived. The Captain was to touch in at Belfast, in Ireland, for part of his cargo, on his return to America.---This I considered to be a fortunate accident.---I immediately embraced this opportunity of returning by the way of Ireland to my country, not to implore favour, not to ask protection, but to DEMAND justice. To pass from France, to any of the dominions of Britain, I had no passport,---my passport was to America. I braved every danger. After a short passage I was landed in Ireland. There I remained no longer than nine days. I concealed not my name, I appeared publicly, and in the places of most pub-

lie resort. To all I announced my situation and intention: The Prosecutor has either designedly, or ignorantly, laid hold of the circumstance of the indorsation of the municipal officers of Havre-de-Grace, upon my passport. The Department of Paris granted me a passport in the end of the month of April, and I arrived at Havre on the 3d or 4th of May. The first step which a stranger is obliged to take, upon arriving at the place of his destination in France, is to proceed to the Municipality, to shew to them the passport from whence he came, to have it revised and attested by them, in order to enjoy security within their jurisdiction. The indorsation, as I have stated, of my Parisian passport, by the municipal officers at Havre, is of the 3d or 4th of May last. From this circumstance the Lord Advocate infers, that I must immediately have found a vessel to carry me home. He makes no allowance for the state of the two nations; he makes no allowance for the difficulties which neutral vessels have, in passing betwixt both; and he knows nothing of the embargoes which these vessels must constantly experience, in the different belligerent ports. Well, then, sometime in the month of May I must have landed in Ireland! Public report has said, that insurrections have been in that country. The Prosecutor has cried out, That I was the dæmon of sedition! And he insinuates, that there is a probability that I was the cause of these insurrections. I smile at the accusation; which he himself in his own mind must deride. It could have been easy for me, by the testimonies of my friends in Ireland, whom I love, and whom I honour, to prove how I passed my time. But for me to dwell upon this is unnecessary. You, of the Jury, must have experienced the same emotions, and at present indulge the same feelings as I do.

From Ireland, the Prosecutor says, I attempted to land in Scotland in a clandestine manner; and so says (his composition) the Indictment.

In the list of witnesses adduced against me, I saw the



names of Carmichael, the person who first recognized me at my landing at Portpatrick, and of Mr. Ross, the magistrate at Stranraer, before whom I first appeared. The Lord Advocate charges me with coming to Scotland in a clandestine manner. He serves upon me, in the list of witnesses, the only witnesses who could prove the fact; Carmichael, the custom-house officer, and Mr. Ross the magistrate, to whom I surrendered. I expected Carmichael and that gentleman would have been inclosed with the other witnesses of the Crown. I would have adduced them as witnesses to prove that so far from concealing myself, I announced myself publicly, and without disguise; so far from attempting evasion, my only anxiety was to put myself in the hands of the Law; and under the protection of its magistrates. The conduct of the public Prosecutor, is in every respect uniform. He is guilty of another piece of dissimulation, by serving upon me in the list of the witnesses of the Crown, the names of Carmichael and Ross. I could not entertain the least possible doubt, but that they were to be adduced. This was an art to prevent me citing them at my own instance. It has succeeded. I am deprived of their testimony. But why did not the Prosecutor, at least, produce the declaration which I made before the Magistrate at Stranraer? That declaration, freely and voluntarily emitted, would have proved that I came into the country in no unbecoming manner.

Much of the invective of the Prosecutor was founded upon my coming into this country in concealment. This circumstance, the Indictment charges as an aggravation of the crime. Judge then, Gentlemen, of the rectitude of the Prosecutor's conduct, when he declaims upon a fact which he shrinks from proving, and which by his art in serving the list of witnesses upon me, he has prevented me from confuting.

I trust, now, you will be convinced that no consciousness of guilt led me from Scotland, no improper motive carried me from England to France; and that no deep, and secret intention, induced me to return in disguise to my country.

The object of that return was to demand justice, to wipe away the imputation of that crime of which I now stand charged. And what is that crime? Sedition.—Is there a term so vague and so undefined, so familiar to power, so familiar to corruption. All who ever dared to oppose **ARBITRARY POWER**, and who in the hour of danger came forward to save their country, have been branded by the epithet of seditious. The term is therefore no longer a term of opprobrium. In one age, it has been applied to men rejected by society, whose names were honoured by after times, and upon whose virtues, and upon whose sufferings, the succeeding age reared the majestic pillar of the constitution. I am then accused of sedition, and I ask you of the Jury, to point out the corner of this land where sedition has existed. And tell me truly where the smallest vestige of this crime has appeared. Upon you the eyes of the people are now placed. Upon your consciences the oath of God is binding. Point out then to us, where the shadow of sedition has been descried. Have the sacred rights of property been any where invaded? Has the blood of the citizens flowed by the hands of the Friends of the People? O! No. — But the Prosecutor has talked of the danger the People of this country were in last winter, of deep-laid plots, and of tremendous conspiracies! and I am the man, whom he charges as the author of the whole, whom he represents similar in malignity to the demon of mischief! and whom he honours with the title of the *pest of Scotland*! Well then, let it be supposed that an attempt was formed to overthrow the Constitution, to kindle the torch of civil war, to lead rapine and murder along the land; Where has the proof of this design been found? Has it been discovered in the meetings of the Friends of the People, who, conscious of the purity of their intentions, affected no concealment, assembled with doors open to all; and who hatched their hellish designs, (if such they were) in no midnight cavern. Could in the crowds, that were admitted to attend the deliberations of these societies, be found no ruffian, who could at least give a bold and manly



testimony against them, and against me? But to support the accusation, the walls of a private house must be invaded; domestic secrets must be explored, and the testimony of a miserable scullion girl, and a hair-dresser, must be brought forward, with regard to words, spoken where suspicion the most vigilant must have been asleep, under the guardianship of a paternal roof. And are these the witnesses, who are to prove against me this mighty crime, which, supposing *them*, to have been honoured by my confidence, would have required the co-operation of thousands of bearded men in arms.

Gentlemen of the Jury, Let us this night throw away vain pretext: Let us act fairly and candidly. I smile at the charge of sedition. You yourselves are conscious that no sedition has existed in this country, and in your own minds you deride the accusation. I know for what I am brought to this bar, it is for having strenuously and actively engaged in the cause of Parliamentary Reform; for having exerted every effort, by constitutional measures, to procure an equal representation of the people, in the House of the People. Let not the Prosecutor sculke in darkness: Let him come manfully forward, and avow the cause which has impelled him to bring me here. I will give you little trouble: I will prevent the lassitude of the Judges: I will save you, the Jury, from the wretched mockery of a trial, the sad necessity of condemning a man, when the cause of his condemnation must be concealed, and cannot be explained. Yes, I plead guilty. I openly, actively, and sincerely embarked in the cause of a Parliamentary Reform, in the vindication and in the restoration of the rights of the people. Nor will I blush to unfold to you my motives; they are supported by their own intrinsic strength, but they are likewise held up by the great and the venerable names of the living and of the dead. I contended for an equal representation of the people, in what I shall ever call the House of the People, because I considered it a measure essentially necessary to the salvation of the State, and to the stability of your boasted constitution. Wherein then consists the excellency

of that time-tried fabric, cemented by the blood of your fathers, flowing from the field and from the scaffold. I will tell you: It consists in the due balance of its three impelling powers, KING, LORDS, and COMMONS; if one of these powers loses its vigour, the constitution in proportion loses its vigour; if one of these powers becomes only a shadow of what it ought to be, if it becomes merged and absorbed into any of the other two, your constitution then also becomes a shadow, and it is annihilated. And do you not know, and does all the world not know, that if any where the proud structure of the constitution has suffered the ravages of time or of corruption, it is in its popular branch. Is it not a fact indisputable, that the representation of the people is not such as it once was, and is not such, as I trust in God, one day it shall be. The man then who sounds the alarm, when he discovers the approach of danger, who summons all who may be concerned in its reparation, is surely no enemy to the country, no foe to the constitution, because he labours in its preservation and protection\*.

Such were the motives of my conduct. If I am guilty, I have in my guilt many associates, men who now enjoy the repose of eternity, whom your fathers admired while living, and to whom you, their children, have erected statues. I have no time to run over all the venerable catalogue. But, is there a man ignorant of the illustrious Locke, and was not this sage in philosophy, this advanced

\* And, as it is essential to the very being of Parliament, that elections should be absolutely free, therefore all undue influences upon the electors are illegal, and strongly prohibited. For Mr. LOCKE (on Gov. p. 2. § 222.) ranks it among those breaches of trust in the executive magistrate, which, according to his notions, amount to a dissolution of the government.—“ If he employs the force, treasure, and offices of the society, to corrupt the representatives, or openly to pre-engage the electors, and prescribe what manner of persons shall be chosen: For thus to regulate candidates and electors, and new-model the ways of election, what is it, says he, but to cut up the government by the roots, and poison the very fountain of public security?” *Blackstone, B. I. ch. 2. p. 179.—Edition, Lond. 1787.*



champion in the cause of liberty, and of man; this friend to the British constitution, who wrote his Treatise on Government in its defence; in defence of the last glorious revolution, by the desire of the Prince; who was the leader of the men who planned it;--was not he an advocate for a reform in Parliament, for a more equal representation of the Commons in the House of Commons? Will you venture to tear the records of *his* fame, to stigmatize *his* memory, and to brand *him* with the epithet of seditious?

Let us rapidly proceed down to more modern times. Let us pass over in silence many illustrious names, whose memory with that of the Constitution will perish together. Let us come to your own days. Are ye ignorant of Blackstone;—the man who first collected the laws of his country, from the deformed chaos into which they had been thrown, who arranged them with elegance, and who adorned them with every flower which the classic field could produce? Are not the volumes of this reverend judge in the hands of all? Should they not be familiar, at least to those who are called to decide concerning the constitution? And has not Blackstone, not with the levity of ill-pondered words, not in the private hour of relaxation, not in the heat of popular debate, but in the calmness and solitude of study, maintained the same propositions which I maintain, been guilty of the same sedition of which I am guilty, when he pronounced that the Constitution was imperfect, in its popular branch, and if any where ALTERATION was necessary, it was there to be desired. I entreat you to listen. I will read you, what this best expounder of the constitution has said. Let the words be engraved on the tablet of your hearts.

“ And this constitution of suffrages is framed upon a  
 “ wiser principle, with us, than either of the methods of  
 “ voting, by centuries or by tribes, among the Romans.  
 “ In the method by centuries, instituted by Servius Tul-  
 “ lius, it was principally PROPERTY, and not numbers, that  
 “ turned the scale: in the method by tribes, gradually in-

" introduced by the tribunes of the people, NUMBERS only  
 " were regarded, and property was entirely overlooked.  
 " Hence the laws passed by the former method had usually  
 " too great a tendency to aggrandize the patricians or rich  
 " nobles ; and those by the latter had too much of a level-  
 " ling principle. Our constitution steers between the two  
 " extremes. Only such are entirely excluded, as can have  
 " no will of their own : there is hardly a free agent to be  
 " found, who is not entitled to a vote in some place or o-  
 " ther in the kingdom. Nor is comparative, wealth, or pro-  
 " perty, entirely disregarded in elections, for though the  
 " richest man has only one vote at one place, yet, if his pro-  
 " perty be at all diffused, he has probably a right to vote at  
 " more places than one, and therefore has many represen-  
 " tatives. *This is the SPIRIT OF OUR CONSTITU-*  
 " *TION: not that I assert it is in fact quite so perfect as I*  
 " *have here endeavoured to describe it ; for, if any ALTER-*  
 " *ATION might be wished or suggested in the present frame*  
 " *of parliament, it should be in favour of a MORE COM-*  
 " *plete REPRESENTATION OF THE PEOPLE."*

If Blackstone then wished for a more equal representation  
 of the people, if he dared to publish and to enforce his wish ;  
 and if I have merely done the same, where is the difference  
 in our guilt ? But there is a difference, and that difference  
 is great. A learned professor of the laws of England, in the  
 University of Cambridge, a grave writer, in the solitude of  
 his retirement, a solemn judge, upon the tribunal of Eng-  
 land, proclaiming that a reform in the representation of the  
 people was just, and essential to the true spirit of the con-  
 stitution ; how superlatively criminal must his conduct be  
 when compared with mine ?

But vengeance ceases at the verge of the grave. There  
 factions and parties rage in vain. If I have been guilty of  
 an atrocious crime, I shall not demand the protection of the  
 dead, I shall not wander among the tombs, and cry for the  
 support and the assistance of those who cannot hear me, but  
 I shall loudly demand the protection of the living, of men



high in rank, exalted in power, and who enjoy the confidence of their king. Can it ever be forgotten, that in the year 1782, Mr. Pitt was stained with the same guilt? Did not he preach up the necessity of a reform in the representation of the people? Did not he advise the people to form societies; and did not he countenance these societies, by his presence? I appeal to the resolutions which he subscribed, in the Thatched House Tavern. I attest the motions which he made for Reform, in the House of Commons. Beware how you condemn me. Beware how you brand me with the opprobrium of being seditious. At the same time you condemn the confidential Minister of the King. Nay more Sir, in bringing this charge against me you accuse your Sovereign; for can it be supposed that he would permit a man to enjoy his confidence, who in the year 1782 by being a reformer, as I am in the year 1793, wished to precipitate this country into anarchy, desolation, and, into all the horrors which you have described.

But if the attempt to procure a Reform in Parliament be criminal, your accusation must extend far and wide. It must implicate the Ministers of the Crown and the lowest subjects. Have you forgotten that in the year 1782, the Duke of Richmond, the present Commander of the forces, was a flaming advocate for the universal right of suffrage? Do you not know, that he presided in societies, and like Mr. Pitt, advised an universal formation of such societies all over the kingdom? Have you never read his famous letter to Colonel Shariwin, in which his principles, his testimony, to a full and complete representation of the people, are indelibly recorded? Is guilt the passing unsubstantial fashion of the day? Does it vary according to times and to seasons, and to circumstances? Shall what was patriotism in 1782, be criminal in 1793? You have honoured me this night, by the title of the pest of Scotland. And if the same offences merit the same appellations, you must likewise liberally bestow this epithet upon the first Lord of the treasury, and upon the Commander of the forces.

But what term of super-eminent distinction will not you, the Public Prosecutor ; you the Lord Advocate for Scotland, appropriate to yourself ? Were not you, not many months ago, likewise a reformer ? Did not you contend and act for a more equal representation of the people in the House of Commons ? Were not you one of those men, who, for that purpose, assembled lately in this city, in what they called a Convention, and assumed to themselves the title of Delegates from the Counties ? Were not you, yourself, employed in framing a bill for the extension of the elective franchise ? Every charge in your indictment against me recoils upon yourself ; in accusing me, you charge yourself with sedition. If it was lawful for you and your friends to meet in societies, and in conventions, for the purpose of a Reform in Parliament, unless the standard of guilt shrinks and extends as caprice or power may order, it surely must have been permitted to me and my friends also to meet, and to act on the same principle.

But I advance in this tract no farther, although my assertions and my arguments are just, yet the subject of them is so connected with ridicule, as to render them not so seeming in this solemn trial.

Gentlemen of the Jury, If the real cause of my standing as a Pannel at your bar, is for having actively engaged in the cause of a Parliamentary Reform, I plead guilty. My conscience, however, will whisper consolation to me under my condemnation. I engaged in that cause, for I thought the measure was to save the country ; that a more equal representation would dry up the sources of corruption, would diminish our taxes, and stop the effusion of our blood. That such were my motives, appears from every part of the evidence against me. The public Prosecutor shrunk from the examination, even of the testimony of his own witnesses. He averted his eyes from the proof, in order to indulge himself in vain declamation and unbecoming invective. I will not, however, imitate his conduct. I will examine minutely every branch of the proof which he has ad-



duced against me; and you will be convinced that after every word and action of mine has been scrutinized; after even the levity of the unguarded hour has been explored, and while instructed spies have watched every book, had marked every word, not the vestige of sedition can be discovered.

The first charge against me is, That at meetings of the people which I myself had convoked, I made seditious harangues; vilified the King and constitution; represented the monarchical part of our government as cumbersome and expensive; instituted a comparison betwixt our system and that of France, and did every thing to inflame the minds of the people to insurrection and rebellion. It is particularly alledged that I was guilty of these crimes at two meetings, the one at Campsie, and the other at Kirkintilloch.

To prove this charge, Alexander Johnstone is adduced. You will remember, that I offered to prove that this witness had expressed himself in the most rancorous terms against me; that he would do all in his power to get me hanged. By respectable witnesses, I could easily have supported this averment; but I was not allowed by the Court, as I could not specify the particular cause which had excited the malice of a man I did not know, and whom I do not remember to have ever seen. But what does even Johnstone say? I will read you from my notes the whole of his evidence. Correct me if I have erred in taking down any thing differently from what has been stated. I believe that my notes are accurate, but mistakes are not impossible.

*[Here Mr. Muir read over the whole of the evidence.]*

What does this witness then say? He says, that I stated, in the meeting at Campsie, the disadvantages in the representation, from boroughs being rotten, and from others having no vote, the population of England and Scotland, the small number of electors in both; and that the people were not fully represented. And is this sedition? Is not the fact notoriously true? Has it not been refounded innu-

merable times within the walls of the House of Commons itself? Has not the table of that House been covered with petitions, expressing it in language infinitely stronger than mine? If to state truth be sedition, why did our legislature slumber? Why slumbered the law; and why was not public vengeance armed with the sword of justice, when this crime dared to pollute the sanctuary of the legislature, by its appearance within it?

Johnstone depones, that I said, If a man gave 20,000*l.* for a seat in parliament, he behoved to derive some interest from it. Is not the fact true? Do not we daily know of sums of money being given for seats in that house, and can there be a conclusion in Euclid, more certain than the inference which I draw from the fact? It may be said, that the House may be pure and uncorrupted, even although such sums of money are given for admission into it; that men may do so in order to serve their country, or to display their own abilities. Grant all this; but have we not seen much greater sums thrown away at contested elections, by men who never opened their mouths within the walls of St. Stephen's Chapel; whose patriotism never shone forth; and whose abilities were never discovered? The witness depones, that I said the Duke of Richmond had been bribed into silence by 20 or 30,000*l.* And supposing I had said so, that this was the salutary opiate, which calmed and cooled the fever of his brain, and probably saved him the mortification of standing his trial, also, for the crime of sedition; what has this to do with the present matter? It is not the Duke of Richmond, but it is the King himself that I am accused of vilifying. This assertion of Johnstone's is indeed too ludicrous for serious argument.

Gentlemen, before I proceed farther, let me make one remark. I am to be tried by the law of Scotland; and, by that law, two witnesses are necessary to prove a crime.--- This is a rule full of humanity; but, at the same time, by cutting off proof, it may, and has upon some occasions defeated the ends of public justice. If, however, the concurrence



of two witnesses were to be rigorously insisted upon, it must be in a case similar to mine, where their testimony is to go to words, *volantia verba*, neither engraved in marble, nor recorded in brass. You know the infinite variety of circumstances depending upon the speaker, the occasion, the manner, the person to whom they were uttered, and his situation; by which, the meaning of the same words, can be diversified and modified, tortured into guilt, and explained into innocence. By the law of England, which is likewise the same with ours in the case of treason, the bare uttering of words, without any overt act, cannot be admitted as evidence to prove the crime.

Johnstone depones, that I compared our constitution with the French, and said that their arms would be successful; that their representation was more equal; two thirds of their debt paid, and that their manufacturers, in the competition with ours, would have the advantage. Whoever heard before, that it was unlawful to compare the British constitution with that of another country? If the British constitution is the boast of ages, the pride and the glory of the world, Can it suffer by any comparison? On the contrary, will not its splendour brighten by the foil? But does Johnstone say, that I gave the superiority to the French constitution over the British? No.---Does he assert, that I exhorted the meeting to reject the British constitution, to adopt the French, and to adopt the French as the better model? No; not a word. What then says he? That I merely compared the two together. Is this sedition?---Alas! we are all seditious. Is there a man here, or in this country, who has not, in his own mind, and who has not in words, made a similar comparison?

Johnstone next observes, That I mentioned, that two thirds of the French national debt was already paid; that their taxes were less, and that I ascribed this to the people being more equally represented in their legislature. I may have said so, or I may not have said so. My remembrance does not carry me. Whether the fact was true, at the time

that I spoke in the meeting, of two thirds of their national debt being paid, and of their taxes being less, I know not. Certain it is, before and since, I have often heard it to be so, in word and in writing; but I will say this to you, and I will say it to all Scotland, that an equal representation of the people is the most direct and salutary method to diminish and pay off the national debt; to alleviate the weight of taxes, and to remove the clogs of industry. Nothing can be truer than the inference which Johnstone says I drew, that a people equally industrious, must have the advantage over another, who pay greater taxes, and who groan under the burden of a greater debt. If I were connected with this last nation, I certainly would advise them to take every constitutional step to procure a diminution of their debt and of their taxes. And what does Mr. Johnstone say? That I advised the society to petition Parliament, and that the sole intention of these societies was to procure a more equal representation and a shorter duration of Parliaments. Do you say then, that the object of these societies is unconstitutional? Or do you say, that these societies, in the means which I advised them to make use of in order to accomplish that object, were to act unconstitutionally? You can do neither. Under the free government of Britain, every man has a right to look after those whom he is supposed to delegate to the House of Commons, to be the arbiters of his liberty, his fortune, his life. He has a right to come and state to them his wrongs and his apprehensions; and the mode which the constitution has pointed out is by petition.

Johnstone depones, that I advised the people to consult together, to communicate and diffuse their knowledge: The advice was a good advice; and such an advice as I would give were I still in the same situation. What! Is the time now come when the mind must be locked up; when fetters must be imposed upon the understanding, and when the people, the great mass of human being, must be prohibited to receive information, and to communicate among them-



selves the information which they may have received. Miserable people—Country to be deplored !---Ignorance is the source from which despotism flows. The remembrance of former liberties will make you only more wretched. Extinguish then (if possible,) the light of heaven, and let us grope, and let us search for consolation, if it can be found, under the darkness which shall soon cover us. But the prospect before us is not so dismal.---We live, and we act under the British constitution. A constitution which, in its genuine principles, has for ages consecrated freedom. We live, and we remember the glorious revolution of 1688, which banished despotism, and placed the family of Hanover upon the throne. We remember the Bill of Rights; nor shall we forget one of its most sacred clauses, which declared, established, and sanctioned the unalienable claim of the citizen to petition Parliament. Now, as members of the British constitution, acting under the Bill of Rights, how should our conduct be shaped? Do we complain of general grievances, such as, an unequal representation of the people? It would be arrogance in a part to speak the language of the whole. Let those, then, who feel most sensibly the pressure of this general grievance, not presume to complain for the nation, but consult the nation. And how are they then to consult the nation, but by bringing the people together in societies, to deliberate and to resolve? Would you wish the people to act unadvisedly. Would you propose they should carry petitions to the doors of the House of Commons, without knowing the real signification of the import of these petitions? Let us apply to our political conduct a rule sure and unerring in private life.---Think; deliberate before you act. An unequal representation is a general grievance.---Before we seek to obtain its redress, let us inquire, in the first place, if it is generally felt; and in the second, if redress is generally wished for. In applying for a general remedy, let us first be convinced of the general disease. Without this, a few factious may presume to speak for the nation; may impose upon the weak, and may plunge

the *many* into inextricable confusion and misery. The great proposition, then, which I maintained is, that the people should consult together; that they should form themselves into societies; for it is only by so doing that they can conduct themselves with wisdom, and hope for success.

The Bill of Rights declared the unalienable, imprescriptible right of the people to petition Parliament, and if you condemn me for advising the people to petition with reflection, with united and general deliberation, for redress of general grievances, ye tear the record of our liberties, and scatter the fragments where they never can be collected.

In advising then, even according to Johnstone's evidence, the people to inform themselves, reciprocally to communicate their information, and then wisely and deliberately to petition Parliament, you do not condemn me, but you trample upon their liberties, and you proscribe the constitution. If I declared, at the meeting of Campsie, that the people should adopt every mean to instruct themselves with regard to their political rights, I declare and I inculcate the same now before you, and before this great audience.

Hear farther what Mr. Johnstone says. I have his words accurately in my notes. I advised the society to get ALL the political pamphlets from a neighbouring bookseller.--- The advice was a right advice, I did not lift myself under the banners of faction. I combated neither for ministry nor for opposition, for the ins nor for the outs; I fought in the cause of truth, and how is that cause to be successful, but by general, complete, and impartial information of the different arguments, advanced upon either side of the great question of Parliamentary Reform? Gentlemen, remember who the witness is, who brings forward this important truth in my favour. It is Alexander Johnstone, the first witness adduced by the Prosecutor, against whom I objected on account of the expressions which he had used indicating his intention to ruin me, which by respectable witnesses I offered, instantly, to prove, but which proof was not allowed by the Court. When this man speaks what is



strongly in my favour, you cannot suspect him ; nay more, what he has said, affords a clue to my conduct. Fond of reading myself, purchasing, for information, almost every new publication, was it not natural and just for me to recommend a similar line of conduct to men, who, from their union, were enabled to defray the expence ? If I had been the tool of party and of factions ; if truth had not been my object, I would have said to this society, ‘ purchase not the books which are written against Parliamentary Reform ; they are merely the productions of pensioned hirelings ; but read every treatise written in its defence.---These are the productions of enlightened, and of philanthropic men, and they are stamped by the signature of genius.’ You will remember what the witness has said upon the interrogatory of the Solicitor General, relative to what I mentioned concerning the King, Lords, and Commons ; What was the reply of the witness ? It was this, that I said, the constitution ought to consist of King, Lords, and Commons. Is this vivifying the Monarchy ? Is this representing that part of the government as expensive and cumbersome, as the indictment sets forth ? Is this inflaming the minds of the people, and exciting them to insurrection and rebellion ?

This witness has likewise deposed to a remarkable fact, I will state you his words accurately. If I am in error, you will correct me from your notes. “ In that meeting there “ was mention made of Paine’s Rights of Man, but not by “ Mr. Muir. One man in the society, not in a public manner, but to his neighbour privately ; said, that he had read “ Paine’s Works.” What was that to me ? And supposing I had overheard this man use these words ; could I be blamed for merely possessing the faculty of hearing ? Does Johnstone say, that I participated in this private conversation ? He says no such thing. Does he swear that I recommended Paine’s Works, or introduced the mention of them in the meeting ? No. How then is the other charge in the indictment supported by the testimony of this witness ?---

of my advising the people to read seditious books, and circulating such among them.

Johnstone has told you, that most of those who composed this meeting were weavers, mostly young men from eighteen to twenty years of age. What is the inference which the Lord Advocate has deduced from this? I blush to mention it.--- That people, in that situation, and at that time of life, have no right to interfere in public affairs! People in that situation!---What situation? Who compose the great mass of society? Who support the State? Who contribute to its wealth? Who must fight in its defence? People at that period of life!---What period? When the heart is uncorrupted; when the soil is best prepared to receive good seed, and when the feelings of the mind can be most easily led over to the side of virtue and humanity. Because the majority of the members of that society might be weavers, they must be held up in derision! Because the majority of them might be young men, they must be censured for presuming to interest themselves in the happiness of that country in which they were to spend their future days, and whose constitution was to operate upon their future lives! But you have seen several of the members of that society, and those too adduced by the Prosecutor, (Mr. Johnstone in the number) and did you think them so young, so frivolous, and so ill-taught as he represented? This is a matter which regards you, as you were the witnesses, and you must judge for yourselves. Finally, hear the conclusion of the deposition of this witness, which states, "That I recommended peace and regularity to the meeting, and observed that any tumult or disorder would ruin their common cause;" and that I told them, "there was no other mode of procuring redress, but by applying to Parliament;" and that I recommended to them "to beware of admitting any immoral characters as members."

The next witness adduced for the Prosecutor, is Robert Waddell, vice president of the society at Kirkintilloch,



who swears to the particulars which occurred at the same meeting, in which the preceding witness was present.

*[Mr. Muir then read over his notes of this witness's deposition.]*

In what respect does this witness criminate me? Does he not agree precisely with Johnstone, concerning my general conduct. I am accused of vilifying the King and constitution; and what does this witness say? That I made a speech, in which I advised regularity in their proceedings; and that they ought to proceed in a constitutional manner, as the law now is, by King, Lords, and Commons. The indictment alledges, that I spoke and reprobated the monarchical branch of the constitution. But the witness swears, that I said nothing about the expence of the King, nor the comparative expence of the French constitution, nor the success of their arms. Gentlemen, I speak with candour; it is not in my remembrance, that I spoke concerning the comparative excellency of the French or British constitutions. You hear one witness declaring, that I merely compared them together; you hear this witness declare, that I made no mention of either constitution; both of them may have spoken truth according to the impression which was on their minds, but they shew you the danger of trusting to the memory of witnesses, when it relates to words spoken in the warmth of a public discussion, and attempted to be recollected after the lapse of many months. But give whatsoever degree of strength you chuse to Johnstone's evidence, draw from the comparison, which I instituted between the French and British constitutions, an inference as highly criminal as you possibly can; the testimony of that man is completely overthrown by this witness. Mr. Waddell has stated to you what passed after the meeting was over, in private company, in the unguarded hour, when the mind dreads no danger, and when vigilance is asleep. Can any thing prove more strongly than the deposition of this man, the innocence of my conduct? The conversation related to politics, and to new publications; and surely

materials of that kind are infinitely more noble in their nature, than those which deform convivial society, and disgrace the man. He remembers me speaking of Mr. Flower's book upon the French Constitution; a book which the Lord Advocate, although not specified in the libel, wished to insinuate as being seditious, and consequently an aggravation of my crime. Of the truly respectable author of this book, I know nothing; but if, from writing, a true idea may be formed of the heart which guides the pen, there is no man that I would more fondly call my friend. It is true, I recommended Mr. Flower there, because I recommended his principles every where.---I will do so still; I will do so in your presence, in the presence of the Court, and to this great audience. You, who wish for a Reform in Parliament, read and weigh well the lessons, which this good man has given and inculcated. Let personal reformation precede public; let the torch of knowledge lighten the path of liberty; but, above all, let sound morality, and genuine Christianity be the goals from which you commence your political career. A people ignorant---never can enjoy freedom; a people immoral---are unworthy of the blessing.

The witness next mentions, that the only book which I recommended to be purchased, was Dr. Henry's History of England. I am an enemy to the constitution,---and yet I recommended to the people the book best calculated to instruct them in its principles, and in its progress; a book, applauded in private and in public by the Earl of Mansfield, and upon whose application, the author received an honourable pension from the King; honourable to the granter, to the receiver, and to him who first noticed the modest merit of the writer.

The witness next proceeds to mention, that at the meeting, a person of the name of Boyd proposed, that Paine's Works should be purchased and recommended. What was my conduct upon the occasion? I said, it was foreign to their purpose; and foreign, surely, indeed it was. With-



out approving of Mr. Paine's principles, without condemning them, I shall afterwards more fully shew you, that the advice was such as became them and me, in our situation at the time.

The witness mentions, that he purchased for the Society three or four copies of the Political Progress. Does he say, that it was at my desire, or on my recommendation? No. ---That he purchased for his own use and that of his neighbours, three or four copies of the Paisley Declaration of Rights; that he got a copy of Paine's pamphlet, but knows not from whom; that he never saw the Dialogue betwixt the Governors and the Governed, one of the charges against me in the libel; and that a Mr. William Muir shewed him a number of the Patriot. In the name of common sense, what connection have I with this extraneous matter! How does it tend towards my crimination? The witness swears positively, that the only book which I recommended to be purchased by the Society, was Henry's History of Britain,

The witness declared, that a more equal representation of the people was the object of the Society. Being asked by the Solicitor General, what he meant by a more equal representation. He stopt for a moment to consider. O! what matter of triumph was this! Then burst the contemptuous sneer; and then with affected ridicule was pointed out, the absurdity of men so ignorant, embarking in the cause of reformation, when even their Vice-President, the witness, who from his station, if any had known, he should have been the man. But by all, excepting by Mr. Pitt and the Duke of Richmond, who contended for reformation, no specific plan has yet been proposed. In all that was said in the late debate in the House of Commons, no specific plan was brought forward. Is it then a matter of surprise that the witness stopt for a moment to consider his answer to the question? His answer was such as did honour to the coolness of his mind, and to the soundness of his understanding. Two opinions, replied he, divided the Society. One was,

for confining the right of election to landed property; the other, for extending it to the body of the people; that he, for his own part, had not yet made up his mind upon either. Being asked my opinion, he swears, I gave none.

The witness deposes to my express language, that I said to the meeting, that they would be the more successful, the more they were constitutional. Is this preaching up sedition? Is this inflaming the minds of the multitude to rebellion? With every witness adduced against me this day, this witness likewise corroborates my earnest advices to the people to be regular, to be moderate, and to be moral.

The next witness proposed to be adduced against me was, the Reverend James Laplie. My objections to his admissibility were sustained, before I advanced upon the threshold of my proof, by the Lord Advocate's giving him up. Sorry am I indeed for the Prosecutor's timely precaution; proof was thickening fast against this gentleman; proof of practices, proof of crimes, which-----but I go no farther; the day will come, when this gentleman and myself shall exchange situations at this bar. I trust that by your verdict I shall be acquitted, and the moment after, I solemnly pledge myself to this nation, to exhibit against him a criminal accusation of the most serious kind. To say more would not be right, as tending to excite a prejudice against him in the day of his own trial. It is sufficient for me, that, even in this stage of the business, after the proof I was leading, my most rancorous enemy, would have blushed to have brought forward this man's testimony.

The next witness was, Henry Freeland, president of the society at Kirkintilloch. The indictment charges me with having convoked the societies at Campsie and at Kirkintilloch. The witness deposes, that there was an intention of having a society at Kirkintilloch, long before ever he saw me. Does this witness, the first president of that society, who, if any man could, must have been well informed of the circumstances leading to its formation, support the charge in the libel? Quite the reverse. I shall



postpone the most material part of his deposition to the last. In my speech, he mentions, that I spoke about shortening the duration of Parliaments and a more equal representation; that I said, that I thought taxes might be lessened by these means, and that the reform was not to take place as to the King and House of Lords, but only of the Commons. Call you this sedition! Does not every thing brought forward by these witnesses of the Crown, confute the false, the injurious, and the scandalous charge in the libel, of vilifying the Constitution, and of exciting the people to rebellion against the King?

Mr. Freeland said, that I mentioned the success of the French arms, and that liberty would be established in France. Call you this likewise a crime? At the time when I spoke was it not true? Were not the armies of France in every part victorious; and could I, not possessed of the power of penetration into the future, be sure that they were not to accomplish their object? Are not opinions, after all that has happened during the last months, as much divided as they were then? Can you go into private or into public company, where this topic forms not the most material part of their conversation? If merely to speak upon this subject be sedition, you are all contaminated.

Mr. Freeland concurs with the other witnesses in remembering, that I recommended no other book to the meeting, than Henry's History. That I told them all riot would be ruin to the cause; exhorted them to be constitutional and regular, and told them, that they were to petition Parliament, and that there was no other way of getting a reform.

I now come to the most material part of Mr. Freeland's evidence, which relates to my lending him a copy of Paine's Works. Now let us take his evidence in the connection of time. He tells you, that, having heard that a proclamation was against that book, he was upon that account curious to see it, and that he *first* spoke of it to me; that upon Tuesday, eight days before the society met, when I happened to be at Kirkintilloch, in the house of Wallace, to which I

had sent for him, that I bid him search in my great coat pocket, and he would find the book ; but that he had before this time, for the reason which he had mentioned, asked the loan of it from me. He further tells you, that when he first spoke of that book to me, I said, I thought it had a tendency to mislead the people ; that he was surpris'd I did not recommend it, because every body else spoke well of it, and that I did not approve of it.

This is Mr. Freeland's deposition as to what passed between him and me, when he received Mr. Paine's Works. But his testimony goes farther, and corroborates that in which all the witnesses are unanimous, concerning what passed in the society when that book was mentioned ; of its being suggested by one Boyd, to purchase it ; but that I shook my head, and said it was foreign to the purpose.

Gentlemen, This is the most material evidence which the Prosecutor has been able to produce. A wide field is now before us, and that I may deviate as little as possible from precision, I shall arrange what I have to say, under distinct heads.

In the *first* place, the indictment charges me of feloniously and wickedly circulating and distributing this book, in order to inflame the minds of men against the Constitution. You are the judges of the law and of the fact. Your decision will not separate them from each other, but combine them both together. Is it necessary for me to inform you, that, without a criminal intention, there can be no crime ; and has not the indictment itself set forth, that I did not circulate these books merely, but that the circulation proceeded from such intention. Now, I ask you to lay your hands upon your breasts, and to say, where, in the circumstances of this case, is the shadow of felonious design. The Works of Mr. Paine had been published and sold every where. The papers of the day teemed with successive advertisements, announcing where they were to be procured. What excited this curiosity in the public mind,



without uttering a single syllable upon the intrinsic merit, or demerit of these works, is easy to tell. The situation of France roused the attention of Europe. To that country every eye was turned, and every man who could wield a pen, was employed in discussing the principles which the Revolution had brought forward. Mr. Burke entered the field of controversy. The name of that gentleman would give sale and diffusion to any production. Mr. Burke fought upon one side of the question. He was encountered upon the opposite by Thomas Paine. Both of them champions of approved vigour, and of undoubted prowess. --- Could public curiosity not be awakened to the contention of such men? It was so most completely: and, the Works of Mr. Burke and of Thomas Paine, flew with a rapidity to every corner of the land, hitherto unexampled in the history of political science. Is there a single man among you, who has not read the Works either of Paine or of Burke? Is there a person upon the bench, upon the Jury, or in this audience, who has either not purchased or lent the Treatise upon the Rights of Man! Now, if one of you lent to a friend or relation, who might participate in the common curiosity, a single pamphlet of Mr. Paine's, you are as guilty as I am; but why should I use the term guilty? NONE of us are guilty in lending that book, because we harboured no evil design.

If there had been a public law of the Kingdom condemning that book, the presumption of ignorance, could not be admitted by its rigid rule. And the mere act of giving away a single copy, would have been considered as a violation of its letter. But, at the period when I lent Mr. Paine's Works, was the sentence of reprobation, thundered against them? No—I then was guilty of offending no existing Law. I was not certified of my danger. I was not put upon my guard. Was there a judgment of any court in England or in Scotland against this book at that time? No.---Then I had no cause for alarm; but some months before, a proclamation against seditious writings

had been issued. A proclamation, gentlemen, is not law. It can declare and it can enforce what the law has already enacted, but it has no legislative authority. But was there any mention of Mr. Paine's Works in that proclamation? None.---What were the consequences of this proclamation? You know them well.---If there had been a demand before for political books, that demand increased in a tenfold proportion. Concerning the particular books to which the proclamation might be supposed to allude, curiosity was more highly excited, and conversation became more keenly interested. Now, mark the circumstances, in which Mr. Freeland applied to me for the loan of that book. Here, take notice of his express words, "that having heard a proclamation of the King was used against it, he was, upon that account, curious to see it, and first spoke of it to Mr. Muir." Now I ask you, if any thing like felonious intention in Freeland can be discovered, in applying for it to me; a proclamation had been issued against seditious books, and a natural curiosity was excited in him to see what these books were, which he had heard reported to be seditious; a curiosity which, at the time, was common to all. I ask, if you could suppose there was a felonious intention in my lending it? Did I introduce the conversation by speaking of it. Did I advise him to read it, to adopt its principles, and to contribute his exertions to carry them into practice? No.—He expressly tells you, that I did not approve of the book; that I said it had a tendency to mislead the people, at which he was surprised, as it was otherwise approved by all. To what then reduces itself this mighty crime of sedition for which I stand here? To gratify the natural curiosity of a person who tells you, he lives in my neighbourhood, and is a distant relation; I lent a book, which was in universal circulation, unnoticed by Courts of Justice, uncondemned by law.

If you have come here this day with an intention to bring me in guilty, whether right or wrong, say so boldly, openly, and let me add, honestly. Resort not to



wretched pretexts and expedients to justify a stretch of power. These pretexts are soon seen through by the penetrating eye of mankind, and to the guilt attending the determination, will be added the contempt which the pretext will justify.

Gentlemen, in the *second* place, I would direct your attention to what Mr. Paine's writings are, and to the particular manner in which they are presented in accusation, in my trial. I will allow that any writing which calls upon the people to rise in arms, to resist the law, and to subvert the constitution is something worse than seditious, that it is treasonable, but do the writings of Mr. Paine stand in that predicament? Can you point me out a single sentence where he provokes insurrection? Mr. Paine's writings are indisputably of a speculative nature. He investigates the first principles of society; he compares different forms of government together; and where he gives the preference, he assigns his reasons for so doing.

I have neither time, nor inclination to entertain you by dissertations upon the Liberty of the Press. If that liberty is sickly, the Constitution is likewise diseased. If that liberty is extinguished, the constitution expires. You will ask, What is the precise notion which I affix to the term Liberty of the Press? I will tell you honestly, and without disguise.---By the Liberty of the Press, I mean not the power of assassinating the reputation, of torturing the feelings of individuals. No crime in my estimation can be more heinous.---By the Liberty of the Press, I mean not the power of degrading, and of contaminating the public mind by corruption of public morals.---By the Liberty of the Press, I understand not the power of inflaming the minds of men against the constitution, of stimulating the people to insurrection, and of tearing down the barriers of public property, and of public security. Where government is established, that government must be respected. And the truest republic, which ever yet existed, never could tolerate the internal foe, who, within its own precincts, founded the charge to civil war.---BY THE FREEDOM OF THE PRESS, I

understand the INALIENABLE RIGHT OF PUBLISHING TRUTH ; of presenting to the world, whatever may tend to public good, and may not hurt the feelings of individuals, morals, nor established laws.

Constitutions of government are the workmanship of men ; that constitution is the most perfect, which can be most easily amended. There are constitutions, which, step by step, without convulsion, and without blood, have advanced to superior degrees of perfection ; which, by their own internal energy, have effected their own reformation, and avoided the calamities of a revolution. These progressive constitutions, if I may use the expression, must always cherish and support the liberty of the press, as the chief instrument of their preservation. Look back, I beseech you, to the ancient system in France. To you the observation may be singular, but I am confident in my own mind it is just. If, while the vestiges of their ancient constitution still remained, while the remembrance of the States General was not yet forgotten, the freedom of the press had not been annihilated, their constitution would have become progressive ; its reformation would gradually have been operated, and by the exertions of good men and of patriotic writers, all the calamities which we now deplore in the revolution would have been averted. How grateful should we be to eternal providence, that our Constitution possesses in itself the power of amendment, that, without a revolution, it can rectify its abuses ; and that, silently and without disorder, it can advance towards that chastened liberty, which constitutes human felicity. You have read the history of the British Constitution ; and what is it, but the history of a continual progress ? You will next ask what has been the impelling cause of this progress ? I answer, the right of the universal diffusion of information, by means of the Liberty of the Press. If you destroy that liberty, you accomplish one of two things.---The people will be buried in ignorance ; the iron throne of despotism will be erected, and the silent ---I cannot, will not contemplate the picture. If you des-



troy the Liberty of the Press, you may perchance do something else, which is horrible to think upon. This high spirited and generous people will not soon forget their lost rights. You have removed what led to progressive perfection. Evil will proceed to evil. What originated solely from corrupted men, will be imputed to the constitution itself. By undermining its best prop, its most solid and massy pillar, I repeat it, and never shall cease to repeat it, the Liberty of the Press, you expose this holy fabric to a blow, which shall shake it from its foundations. Let us then apply this argument to the case of Mr. Paine. This work is merely of a speculative nature, upon the principles of government. If Mr. Paine's Work is inconsistent with the British Constitution, what is the consequence? If the book is written with ingenuity, it will acquire readers. No man in his sound senses, the keenest advocate for a Parliamentary Reform, but will avert his eyes, bathed in tears, and in horror of soul, from a revolution. He will compare the principles of Mr. Paine with the Constitution. If Mr. Paine has pointed out any thing defective in the Constitution, he will contribute his humble efforts to have that defect repaired. If, upon the other hand, he shall imagine, that Mr. Paine has taken an erroneous view of this edifice, has misrepresented its properties, he will become more and more sensible, from his inquiry, of the security which he enjoys under its protecting roof. The sense of danger will be removed, and his mind, undisturbed by gloomy apprehensions, will enjoy tranquillity. O! how little do ye deem the British Constitution, who think that it is built upon the sand, which when the rain descendeth, and the floods cometh, and the winds blow, and beat upon it, that it shall fall. No.---when the rains descend, when the floods come, when the winds blow, it shall not fall, for it is founded upon a rock. I then maintain, although not in accents sweet to the ear of corruption, grateful to courtly pride, nor acceptable to ill-got power, that those speculative writers, who investigate the principles of our Constitution, who

compare that Constitution with those of other countries, perform a meritorious service to this nation: these writers either impel us to rectify that which is wrong, or more strongly confirm us in our love and in our attachment to that which is right. Let Mr. Paine then be considered as the bitterest enemy to our Constitution, yet as long as he confines himself to speculation, we should be grateful. Our best interests are involved in the Constitution, and like those still of a higher class, superior to time, and which extend to eternity, are too apt to be forgotten, and to make little impression. If Mr. Paine then has called our attention to the Constitution, he has performed to us an essential service, he has led us to contemplate all its perfection, and roused us from our lethargy to rectify wherever, by time and by corruption, it may have suffered decay.

Shall the lending of a single copy of the works of this writer be held criminal? When was there ever such a violation of the rights of Britons? Mr. Paine has composed no model of a perfect commonwealth, as Mr. Hume has done; yet, the political works of Mr. Hume, you have all read, and you have all applauded. If you condemn a man for lending Mr. Paine's Works, you do what even was not attempted to be done, in the Reign of Henry the VIII, when the constitution lay expiring on the rack of despotism, making exertions which only could discover remaining life, but at the same time the privation of strength. Along with equality of political rights, has Mr. Paine preached equality of property? a chimera which may enter into the brains of those, who may dream of a golden age, but who know not human nature. Yet, under that arbitrary reign, did not Sir Thomas More, enjoying the confidence of the King, and placed at the head of the law, publish his Utopia, the plan of his republic, of which an equal division of property, an Agrarian law, an universal community, formed the basis. In this enlightened age, when, after so many fiery trials, our constitution, in its pure and genuine principles, stands unveiled to our view, will you condemn



man for lending a work, equally speculative, and if such a thing existed, as a well founded panic against levellers, infinitely more dangerous.

I should be the last man to propose to your imitation, the conduct of despots ; but I call upon you to ponder well the words of a man, who rendered the terms republic and pure and undefined despotism the same ; Cromwell. Under his protectorship, when Harrington published his Oceana ; informers denounced the work. " My cause is too strong," (said Cromwell) " to be hurt by paper-shot ;" and if you say that, by any publication, the British constitution can be injured, you, yourselves, are guilty of the crime of libelling its strength.

To conclude upon this head, I maintain, that to suppress works purely speculative, provoking not the people to disobedience to the laws, nor to rebellion, however much these works may differ from the constitution, is to destroy the Liberty of the Press, to trample upon the best and the surest bulwark, which defends the approaches to that respected building. If, to lend the Works of Thomas Paine to-day be sedition, to lend a translation of the republic of Plato to-morrow will be treason. Gentlemen, the works of Mr. Paine are lying before me. I could read to you many passages to prove, that they are merely of a speculative nature. You are exhausted ; equally so am I. And yet, we have some length of field before we conclude to travel over. For these passages I refer you to the celebrated speech of Mr. Erskine ; one of the best friends the constitution ever knew, although of that reprobated cast, the Friends of the People. Gentlemen, I trust that you will now be persuaded, that neither the publishing nor the lending of a speculative political book is sedition. But I now call your attention to another circumstance, the manner in which criminality is attached to that book and to myself. Various detached passages are quoted from it in the indictment. They are called wicked, inflammatory and seditious. In the sacred name of justice, will you condemn any book for detached passages, separated from

the whole connection, cut off from reciprocal explanation, and from which neither its general tenor nor scope can be discovered. If you do this, where is the book in which you cannot discover sedition, by dissecting its separate sentences and paragraphs. For my part, if you proceed on in this manner, I do not know a more dangerous collection than the books of holy inspiration. Separate verse from verse, and then combine them, according to your pleasure, and you may make the Bible one of the most seditious and treasonable books which ever was written. But you are neither to condemn that book, nor me, for those detached passages exhibited in the indictment. You must carry along with you the whole works of Mr. Paine, you must scrutinize line, by line, and you must pronounce upon the general context. If you find it provoking the people to resistance, calling them forth to arms, to subvert the constitution; then, no doubt, it is seditious. But, if you find the author indulging himself in nothing but philosophical and political speculation, however much your principles and his may differ, you cannot condemn him for composing it, or me, after it was composed and published, for lending it to a relation.

If you condemn books for being seditious, upon account of passages culled from this page and from that page, and artfully combined together, you have it in your power to award a proscription against books and universal literature. As I have already mentioned, there is not a single book, in which, by dissecting it in this manner, sentence by sentence, and passage by passage, you may not discover immorality, blasphemy, and treason. Indeed, if the sad objects of reflection which present themselves to my mind, when I contemplate the state of my country, could permit me to indulge in a vein of ridicule, I would advise you at once to lay the axe to the root of the tree, and to bring an indictment against the alphabet itself, as it is the source of the evil you dread, as its parts form the component elements of sentences and of paragraphs, which may contain the most



dangerous sedition, and the most horrible treason. But this is not an hour to indulge the sport of humour.

I will admit, that the passages from Mr. Paine and the books exhibited in the indictment may be highly criminal, but will any person venture to say, that I lent these books, for containing such passages, that I particularly pointed them out, and gave them my warmest approbation? If the Prosecutor has a right to presume, that it was upon account of these passages I lent these writings, I too have a right to draw a contrary presumption in my favour. If there are sentiments in the Works of Mr. Paine, (and many such there are,) fraught with universal benevolence, inculcating universal amity and brotherhood, and of a tendency to dispel those passions and those prejudices, which animate and impel nation against nation into the field of blood and of carnage, I am entitled to plead upon these passages: I have a right to say, that it was the antidote and not the poison I recommended: And you must know, that the law of this country obliges you, where opposing presumptions are of equal strength, to let the balance preponderate on the side of mercy.

Gentlemen, I shall conclude upon the subject of Mr. Paine's Works by observing, That all the witnesses have uniformly sworn, that I refused to recommend them; that when the matter was proposed, I said, the principles contained in them might mislead the people, as they were foreign to the object of the society, and might misguide weak minds. There is not a witness adduced by the Prosecutor, who says the contrary of this; and will you agree in opinion, that the charge in my indictment of circulating and recommending these books, has the slightest shadow of support? I will tell you the reason why I did not recommend Mr. Paine's books to the societies in Scotland, and why I declared them foreign to their purpose.---Mr. Paine is a republican, and the spirit of republicanism breathes thro' all his writings. This is his darling system. The object of these societies was, by constitutional means, to procure

a reformation in the constitution, and not a revolution, which implied its destruction; to have their long lost rights restored, but not the assumption of new rights derived from a different system. The people of Scotland were rapidly advancing to a true sense of their constitutional liberties: They demanded an application to them of the constitution, in its genuine principles, in which they beheld their security confirmed, and their happiness established. That they might advance with more ardour in this cause, it was necessary that they should know the constitution; what it had been in its vigour, and what it now is in its decay, in consequence of the corruption of men and of ages. What did I do to effectuate this legal and peaceable object? I did not present to them the splendid fabrics of ancient or of modern republics; I wished them to keep their eyes confined at home, to repair their own mansion rather than pull it down, and expose themselves to the inconveniencies and to the dangers of building upon new plans, the advantages or disadvantages of which could be only known by the uncertain experience of future ages. All the witnesses who speak of my conduct in the societies tell you, that I recommended none but constitutional measures; and that the only book which I recommended to them was Henry's History of England, as the best calculated, by its accuracy and plainness, to give them insight into the nature and progress of their constitution.

If, in my library, in conversation upon the subject of government, the plans adopted by different political writers, had been discussed doubtless, I might have given opinions different from those, which I considered it my duty to advance, when acting under an established constitution, and employed in those measures, which it pointed out, to effectuate a redress of grievances. When Mr. Hume published his Essay upon a Perfect Commonwealth, did not he, as strongly as he possibly could, declare that he thought this model preferable to the British constitution, even in its purest and best principles? But supposing Mr. Hume to have been a



member of the Society of the Friends of the People, what would have been his conduct in it? Would he have said to men who were assembled to renovate constitutional rights only, You must give up the constitution entirely; it is defective and imperfect when compared to the offspring of my fancy; it is this last which you must adopt, and reject the former. But Mr. Hume would have held forth no such language; he would have said to them, 'The grievances of which you complain can be redressed by the energy of our own constitution; the redress of these grievances is the only object of your association. If then reformation is your object, and not revolution, however much you may approve of my speculative system, it must not operate upon you for a moment in practice.'

It was upon this principle that I refused to recommend the Works of Mr. Paine; that I said, that they were foreign to the purpose, and might mislead weak minds. But was it ever before held criminal in an author, to publish what speculative systems of government he pleased, provided he confined himself in the retirement of speculation, and did not advance forth to the field of action? Was it a crime of Plato, under the Athenian republic, to compose his beautiful system, of one more perfect? Was it high treason in Cicero, under the Roman Commonwealth, to write those applauded works, which have been lost in the darkness of the Gothic night, and of which, a few fragments could be found only, when the morning of letters began to dawn upon Europe? Was Sir Thomas More led forth to the scaffold for composing his Utopia, Harrington proscribed for his Oceana, or Hume exiled for his Commonwealth? These authors indulged themselves in a liberty, which, if we now are to be deprived of, we must be left hopeless, and in despair, as the attempt at amendment and reformation will be for ever precluded.

Upon the principle which I have explained, I should have thought it equally, if not more dangerous and inexpedient, to have recommended in a Society of the Friends

of the People, Plato's Republic, or Hume's Commonwealth. Inexpedien ! because these writings might have had a tendency to lead these societies from their constitutional object; dangerous ! because, if presented to weak understandings, and to fervid imaginations, they might have influenced them to depart from those ends, which, by calmness, perseverance, and legal measures, they were sure at last to accomplish, in pursuit of chimeras, brilliant but delusive, always seemingly approaching, but always in reality flying farther away.

Gentlemen, I conclude my observations upon the subject of Mr. Paine's Works. You will remember it was only a single copy which I lent; the circumstances attending it, which, admitting the book to be as seditious and as treasonable as can be imagined, precluded the idea of a felonious circulation. You are the first Jury in Scotland, before whom Mr. Paine was either directly or indirectly brought; I trust, that you will act in such a manner as to do honour to yourselves, in doing justice to him and to me; that you will not attempt to annihilate political science, by condemning a work in its nature purely speculative; that, in this country where our chief glory has arisen from literature, you will not limit her researches, but indulge her in her unbounded flight, into every region where the materials of human happiness and human improvement can be collected. Above all I entreat you, that you would not set the dangerous precedent of condemning a book, for sentences detached from the whole, when you do not consider the general tenor and scope. I tell you that if you do not carry away this book from your table to your chamber, read every line, and compare the whole in connection, you do me most flagrant injustice. *Finally*, I must tell you, that you are not bound by what any Jury has done in England---you are bound by the Law of Scotland; and this is the first trial of the kind which ever occurred here:---Even the decisions in England have lost the respect due to them, although they were to be held out as precedents. We have seen Juries one day condemning the



author and the publishers, and upon the succeeding day we have heard other Juries pronounce a verdict of acquittal.

The next witness is Anne Fisher, a late servant in my father's house. Her evidence comes forward to you with peculiar distinction; caressed by the Prosecutor, and complimented by the Court;---her wonderful accuracy extolled, and her abilities admired. I will soon shew you, Gentlemen, that she has but few pretensions to that accuracy, of which the Lord Advocate spoke in such terms;---that her memory possesses a singular quality, retentive to whatever may militate against me, but hesitating and confused to whatever may seem in my favour. What this domestic and well instructed spy has given in evidence against me, fills my mind with little concern; on the contrary it affords me much satisfaction to find that when I was surrounded in the place where I expected most security,---where all suspicion was lulled asleep, my conduct was so guarded.-----What do I say?---Guarded! Innocence has no need to be on the watch.

My conduct has been such, as even malice itself cannot condemn. But before I proceed to read her evidence from my notes, let me solemnly caution you against the dangerous precedent of giving credibility to witnesses of this kind, under accusations of this nature. The crime of sedition, if you attend to its essence, never can be committed within the walls of a private house. It supposes the highest publicity, the convocation of many. But if power shall say, that words spoken in an unguarded moment within the sacred walls of a family, amount to this crime, What will follow? Not *those* with whom you may have acted in your political life, and who, with the impression of the oath of God upon them, can best tell the truth; not *those* whom you may have admitted to your friendship, and to your confidence, and who best know the secrets of your soul; but the meanest of your domestics, who could hardly approach your presence even in their menial duties, who, (if the expression may be used) to the members of a fami-

ly are almost unknown;---These ! These ! The meanest and the lowest---will be brought forward to swear away your property your reputation, and your life : And such is this witness, who is adduced against me with such parade. O ! Beware how ye sanctify the shameful proceeding. It is not me you wound alone, but you destroy the confidence which subsisted between man and man ; you lead, by your own hands, to the fire-sides of your children and your dearest relations, the fiends of suspicion and of danger ; and ye forever put an end to that reciprocity of communication, which enlivens and endears domestic society.

Now let us hear what this witness has to say ? I will read you from my notes, her evidence. If I have erred in taking it down, you will please correct me.

[*Here Mr. Muir read from his notes, the evidence of Anne Fisher.*]

The testimony of this witness seems to relate to two of the principal charges in the indictment ; the first, to my having made speeches in public societies, vilifying the King and constitution. The second, to my having distributed and recommended seditious books, *viz.* Mr. Paine, the Patriot, the Paisley Declaration, and the Dialogue between the Governors and the Governed. Under these two different articles, let us examine the testimony of this witness. *First*, To my making seditious speeches ; *Secondly*, To my circulating seditious books.

Every thing which the Prosecutor could adduce against me, he has told you that he would adduce under the *generality* of the term Sedition, even although it should not be specified in the libel. The Court likewise has permitted him so to do ; and in the case of this witness, you can see an exemplary illustration of this right, if it can be so called. Accused of making seditious harangues in public, this wretched girl is adduced to swear to what she says, she may have heard in private, when instructed to take her watch, she stood and marked to destruction those who fed her.

And what is the dreadful language she has heard me use



in my unguarded moments. I will repeat all that she says, I will recall to your remembrance her express words, and upon them I will make no comment. "That if every body had a vote, I would be made member for Calder;—that members of Parliament would have thirty or forty shillings a-day, and that, in that case, there would be none but honest men to keep the constitution clear." You remember how the Public Prosecutor enlarged and expatiated upon these words of this witness. Now, after labouring so long in vain, he fancied, he had got something against me. I smiled at the indecency of his exultation; but next moment I blushed when I reflected he was a lawyer, and chief Counsel in Scotland for the Crown. Here said the Prosecutor, "you see the cloven foot.—You see French principles manifested. Here you discover the whole tincture of his soul. Members of Parliament to have thirty or forty shillings a-day for their attendance—to be honest men and, to keep the constitution clear! Is not this evidence, that he means to introduce in place of our House of Commons a National Convention, on French principles, and according to French forms."

Sorry am I to record the ignorance of this Lord Advocate of Scotland. Is there a man who has hardly opened the volume of the history of our constitution, who does not know, that until a very late period indeed, when corruption glided in, and tainted and poisoned the whole, members of Parliament received their wages from the hands of the people alone: O! how I speak it with joy when I view the past, with sorrow; when I contemplate the present. they would have scorned to have received the price of their attendance from any other hands, than from the hands of the people. Then the constitution possessed all its energies. Then towered the constitution in the strength of age, but with the bloom of youth. The people delegated none, but men whose virtues they knew, and none but men who possessed public virtues could be found to undertake the important mission. Look back I entreat you to all

the great and men good whom English History records. Turn your eyes to the Hampdens, to the Sidneys, to the Marville's of former times; to those men whom—— but I stop; they received their wages directly from the people. Let the Lord Advocate pronounce their eulogium by his invective. If what I have said be sedition, when overheard by that spy Fisher, I shall next moment render myself infinitely more criminal; for I declare to you, that we never can expect a virtuous House of Commons a *Constitutional* House of Commons, a House of Commons, such as it once was, connected with no other interest than the interest of the people; until such time as its members shall receive a compensation for their attendance from the people and from no other quarter, be entitled to no other reward than the approbation of their own minds, and the applauses of their fellow-citizens, of whose rights, and of whose liberties, they have been the undaunted, uncorrupted defenders.

Fisher proceeds to state, that she has heard me say, That France was the most flourishing nation in the world, as they had abolished tyranny, and got a free government: And that, further, she has heard me say, that the Constitution of this country was very good; but that many abuses had crept in, which required a thorough Reform.

Gentlemen, even in my most unguarded hours, this domestic spy cannot, by her evidence, support a tittle of the indictment, where it charges me with vilifying the King and Constitution.

Of her idle story of what I said concerning Courts of Justice, that they needed a reform, and that this Court in particular got their money for nothing, but pronouncing sentence of death upon poor creatures; and that their parade in coming into Glasgow was useless, I disdain to take notice. Only, you will discover her exquisite art. This day, I am tried before this very Court, and she supposes, that, by inventing and throwing in a circumstance of this kind, in order to irritate the judges against me, she will more completely execute the wretched job she has undertaken to



perform. Were there not more servants in the house, who had infinitely better opportunities to hear my conversation; and must she, the lowest of them all, with whom she cannot pretend I had ever two minutes conversation, be singled out, and pitched upon for this drudgery?

This witness depones, that she heard me say, a republican form of government was the best, but a monarchical form of government, under proper restrictions, would be the best in this country. With all her art, and with all her memory, she cannot depone to a single circumstance which can strike against me. Even from her own account of my private conversation, it appears, that when I spoke of republican forms of government, it was purely in the abstract, without any allusion to this country, without expressing any wish to see any particular mode of them introduced; and that when I spoke of this country, I never deviated from the constitution, but said that a limited monarchy, under restrictions, was the best adapted to its interest.

The next article of sedition to which she depones, is of the most extraordinary kind, that I had sent her to employ an organist on the streets of Glasgow, to play the French tune of *Ca Ira*. What! was a tune, unintelligible to the multitude, to light up the flames of civil discord, and to be the forerunner of the revolution? Have you read the words of that popular song? Could you discover a single illusion in them to the state of England? But supposing you did, there is a presumption from your station in life, that you are acquainted with the French language; but is it so with the multitude of our weavers in that quarter of the country? Britain has always cherished freedom, and shall it be deemed criminal in me, to listen to the effusions of joy, poured out by a neighbouring people, on obtaining that first of human blessings, which always constituted our peculiar distinction? But I know it well. The word *Freedom* is soon to be proscribed from our language; it carries alarm and sedition in the sound. If I had caused to be recited one of those noble choruses of the Grecian drama, in which, with

the enthusiasm of liberty, the glories of the Republics of Athens or of Sparta were displayed, in language more than mortal, my offence would have been deemed the same with that of amusing myself, by having the national song of France. If it had been possible for me to have caused to be sung upon the Streets of Glasgow, one of the Psalms of the Hebrews, in the original language, in which the triumphs of the people and the destruction of tyrants are recorded in a strain of the highest poetical inspiration, the criminality would have been the same with that of listening to *ca ira*.

Let me abandon the subject. My political career has neither been obscure nor inglorious. It has undergone the severest scrutiny, which ever fell to the lot of man and after every engine has been employed, after heaven and earth have been moved, the tremendous charge of sedition is to be supported, by the testimonies of domestic spies, swearing not to my serious occupation, but to the amusement of an idle hour, in listening to a foreign tune.

Let us next attend to the evidence of Fisher, as far as it relates to seditious publications. She swears that I used to recommend to great many country people, who came to my father's shop, to purchase and to read the works of Mr. Paine, as they composed a very good book. How can you believe the general averment? In the number of country people, she can only specify one John Barclay, and when you come to his evidence you will see that he gives her the flattest contradiction. She deposes that she has bought at two different times for my uncle Alexander Muir, at my desire, two copies, a copy of the first part, and a copy of the second Part of the Rights of Man. Can you suppose, that if my intentions had been felonious have introduced into my own family? Can you imagine that I could wish to involve in the conflagration of my country, my nearest relation to whose property I may eventually succeed? Why is not Alexander Muir brought forward as a witness? Certain it is, that he was closely intimidogated, before the in-



quisition held by Mr. Sheriff Honeyman. But the Lord Advocate says, that his feelings would not permit him to examine the uncle against the nephew. Wonderful humanity ! Goodness ever to be remembered and extolled ! But I will tell the Lord Advocate the real reason why Alexander Muir was dragged from home like a felon, by the myrmidons of power, carried before your friend Honeyman, and every art employed to wring from him, every domestic secret ?

Speak then to us of your humanity, continue to speak to us of your feelings !

Fisher next depones, that I much pressed John Muir to purchase Paine's works, that he was prevailed upon, and that she was sent accordingly to purchase them. Now you will hear the evidence of this man, immediately in express contradiction to this witness. She next tells you, that I advised another domestic, Wilson my hair dresser, to purchase Paine's works and keep them in his shop, in order to enlighten the people, and you will have Wilson immediately express himself far otherwise. She speaks of carrying some paper which she thinks was a Declaration of Rights, to a Printing Office to be corrected. Every thing in her evidence is made to tally with the indictment ; I am accused of circulating a paper, entitled a Declaration of Rights by the Friends of Reform in Paisley. And this respectable personage ! so highly complimented by the Court, must likewise swear something concerning this. Yet her tenacious memory utterly fails her. She thinks she can only remember what the title was, but nothing more. She knows nothing of the substance of the writing, but her evidence is to give a colour to the allegation of my having circulated that paper from Paisley ; and to furnish ground for insinuating, that---I myself was the author of it.

Gentlemen, the witness next swears to a fact which must rouse, as having domestics yourselves, your keenest indignation ; vigilant has this family spy been in the course of her duty. She tells you what books she has seen lying up-

on my table. Not contented with describing the title of the books, she must go more deeply, and she informs you that she saw in my house, a copy of Paine's writings upon *fine paper*, and one or two copies upon *coarse*! Gentlemen, from this moment, lock up your libraries. If they are extensive, as you have heard mine is, there is no crime in the whole catalogue, of which by the testimony of your own servants you may not be found guilty. The possession of Plato, of Harrington, or of Hume will mark you down for republicans. The misfortune of having the Alcoran of Mahomet will cause the shipwreck of your faith, and stigmatize you as the disciples of the conqueror of Mecca, well do I congratulate the Lord Advocate of Scotland. He has discovered a new region in the sphere of criminality. He will not merely be connected with a voyage of discovery But along with his associates, he will make many voyages to this fertile land, and return home, loaded with many valuable cargoes. But seriousness becomes this place. Can it be believed that in the close of the eighteenth century; that this night the servants of a man, should be examined concerning what particular books he may have in his house, and that the proof of the possession of particular books, may ruin his reputation, sweep away his property, and deprive him of his life.

Let us proceed on with this witness, if you possess the common feelings of men, every sentiment of indignation must be excited, not against her---she is to be pitied---her task has been a dreadful one, but against the manner in which this crime of sedition, has been attempted to be proved against me.

The libel charges me with feloniously circulating a Dialogue betwixt the Governors and the Governed, extracted from the ruins of Volney. This dialogue is narrated in the indictment, and it is charged to be felonious and seditious. There is not a word in this dialogue which is not true. Alas! in colours but too faithful, it, delineates the mournful history of six thousand years; the crimes of despots, and



the artifices of impostors, to subjugate, and to blind the people. It is purely abstracted. It is entirely speculative. To no particular nation, much less to England does it allude; if to any, it must be to the old government of France. Yet, this dialogue is libelled as seditious and inflammatory. The truth is, the crime of sedition *must* be brought home against me; and the possession of any book as well as that of Volney, must be employed to substantiate it. Let us hear what the witness says concerning the felonious circulation. She heard me read it in the presence of my mother sister, and some other people, that I said, it was very clever, and done by *Volney*, one of the first wits in France. Who were those other people who were in company with my mother and sister when I read it? Her accuracy, so much extolled by the Court, totally fails her. But the propagation of sedition must not be confined, to a mother and a sister; it must have a wider range;---*other people present!* and founded upon his beloved *generallity*, the prosecutor has reason to argue, there might have been a full company, a numerous meeting, nay, an immense congregation.

You have heard the testimony of Fisher, and these are the arts, and of this class are the witnesses by which I am to fall. By receiving such testimony, you forever destroy domestic society; you blast the blossoms of family confidence; you render all suspicions of all; each relation to behold in each a deadly foe. And is it not sufficient, to weep over public calamities, that wide spreading desolation which at present passes over the nations; but when we retire to our homes, we must be obliged to confine ourselves in a dismal solitude, guarded by suspicion and by danger, where no kindred affections can enter, and where no reciprocal consolation can be admitted.

I hasten over the evidence of the remaining witnesses against me, I am overcome by the exertions of this day; and you must be greatly exhausted.

The next is the evidence of Thomas Wilson, my hair-dresser, and he is brought to bring up the rear of Fisher's

testimony. He depones, That I asked him if he had bought Paine's Works, and that I advised him to get a copy of them, as a barber's shop was a good place to read in. Does this confirm the testimony of Fisher, who says, I desired him to buy that Work, and to keep it in his shop in order to enlighten the people. Mark the art of Fisher. How strongly she paints what might seem to strike against me.--- *To enlighten the people!* But does Wilson concur in this? No,---The person who should have best remembered, to whom the words were addressed.

Wilson tells you, that he bought a copy of the Address to the Addressers, but that was not by my advice. He even recollects the levity of a jest. An old man from the country, came in while he was dressing me, she remembers me saying, that this old man was a great reformer. If I ever said so, I wish it may not have been in jest, but in earnest, and that the fact with regard to the man was true. For I know of none who should be greater reformers, than those who are standing on the brink of the grave, and panting upon eternity. But I am afraid that this witness remembers only a piece of unmeaning gaiety. For he adds, the old man said I was only taunting him.

The conclusion of the evidence of Wilson, affords me high consolation. It is a proof of the innocency of my private life, in moments, when I could not possibly think of the affectation of integrity. He swears, that he has always heard me say that I would maintain the Constitution, and that I wished for peace, and good order, and good morals among the people; and that he never heard me speak against the King.

The next testimony is that of John Muir, he tells you that he had a conversation with me in September last, about Paine's book in my father's house, that I told him I had it not. Does this resemble the conduct of a man accused of distributing these books to all and sundry, and scattering them over every portion of the land? He says, I mentioned that I would send a servant who would get it for him;



that a servant girl accordingly went and got it. Does not this completely confute the testimony of Fisher, who affirms that I much pressed this man to purchase that book, and he tells you that he himself asked the loan of it?

Is not this a complete contradiction of her testimony?

The next witness is John Barclay. That old and venerable person whom you saw adduced as a witness by the Prosecutor; and what does he say in his testimony? That we were elders in the same parish, the parish of Calder, in which the lands of my father are situated. He informs you that at the last election of a minister for that parish, a dispute had arisen, concerning the right of election, and that he voted upon the same side of the question with myself. This introduced acquaintance, and acquaintance produced friendship. The Lord Advocate, in speaking of this virtuous and venerable old man, exclaimed with insolent contempt, Such men as these are the companions, and such men as these are the friends of Mr. Muir! Yes, I tell the Lord Advocate, I tell the aristocracy of Scotland, I glory more in the friendship of such an old, poor and virtuous man, than in the friendship of the highest titled peer, who derives the resources of his guilty grandeur from the calamities of the people; who wrings out a splendid, but a miserable revenue from their sorrow and distress, from their tears and their blood, which he squanders in dissipation, to the destruction of private virtue, and to the contamination of public morals.

Let us see then what Mr. Barclay says against me. That he asked my opinion concerning Paine's books, and that I told him he might purchase if he chose them, as they were printed, but that I afterwards said, it was not a book for us. Does Mr. Barclay's evidence support the criminal charge in the libel, of my advising people to read seditious books, and of my circulating them over the country? Does not Mr. Barclay's evidence corroborate the testimony of every other witness? That for the reasons which I fully explained, I never recommended, Mr. Paine's works;

but that even when that work excited the greatest attention of the country, when mention of it was introduced into every company, and into every conversation, I uniformly expressed myself, that it was not a book for our purpose,--- for our purpose, who were engaged in the cause of a Parliamentary and constitutional Reform. Is there a single witness brought forward by the Prosecutor, who has, in the smallest degree stated any conversation of mine which was unconstitutional? Hear what Mr. Barclay says, that he was frequently with Mr. Muir, and in his library, from which he borrowed some books, that he had many conversations with him, and heard him say, that this constitution was an excellent one, that he praised the King and that he always spoke of order, regularity, and obedience to the ruling powers. In short, Gentlemen, all and each of the witnesses for the Prosecutor, use the same uniform language, attest that neither in public nor in private, ever a single expression dropped from me, which the most violent associator could construe into guilt. The last witness whom I shall take notice is William Muir. The person whose religious principles, at first induced him rather to suffer according to the eleg expression of the Lord Advocate, *eternal* imprisonment than to take the oath, until his scruples were removed by the Rev. Mr. Dunn. He swears that in my father's house at Huntershill, I gave him eleven numbers of the Patriot, and a copy of the Political Progress. From these numbers of the Patriot several passages are quoted in the indictment. Of the Political Progress there is no mention made. And I maintain that every passage in the Patriot, quoted against me in the libel is highly constitutional. The sentiments advanced in them may not sound musically sweet to the ears of corruption. They call upon you to arise and vindicate the purity of your constitution, to vindicate your long lost rights, and if my feeble voice could extend to the remotest corners of Scotland, I should resound the same sentiment in the same language. These numbers of the Patriot speak to you concerning sep-



ennial Parliaments, and I say to you that the act which converted triennial Parliaments into septennial, violated our holy constitution, tore the charter of our national liberties, and paved the way for the inroads of a frightful despotism.

But this witness concurs with all the preceding witnesses, with regard to my conduct, and to my principles. He swears, That he does not remember to have heard me speak against government, that I did not advise unconstitutional measures; and that he heard me tell, how Old Sarum was represented. Old Sarum represented! And does not the friends of the Constitution weep, and does not the enemies of the Constitution smile, when they hear of such representation.

Before I speak to the third article of accusation, the reading in the Convention, the Address of the Society of United Irishmen of Dublin, permit me to make one observation of the manner in which the Prosecutor spoke of the papers found in my custody. Do they correspond with the view which he presented of them? Are they the documents of correspondence with foreign or internal foes? And supposing I had involved myself in a correspondence of that nature, do you believe I could be so infatuated, to retain in my possession that, which must have been attended with, to me, certain destruction. Among my papers, there is not one which can be construed into guilt. They chiefly consist of pamphlets unconnected with the politics of the day, and of the various publications of a society, pure and untainted in its principles, of which I have the honour to be a member. But every thing must be ransacked to heap crimination upon my head. One of the letters which I had undertaken to deliver in Scotland, is addressed to the Reverend Fische Palmer, mark, cries the Lord Advocate, the company which this man keeps,---who is Mr. Palmer? A person whom I have indicted for sedition, and who is to be tried in a few days at Perth! Unheard of cruelty!---Unexampled insolence!---What! Before this court, this jury,

this audience, do you attempt to prejudicate, and condemn Mr. Palmer in his absence, undefended, and without any possibility of defending himself? But exclaims the Lord Advocate,---The seal upon the letter is a proof of the most atrocious guilt. What is it? Horrible to tell! It is the Cap of Liberty supported upon a spear, with the words "*Ca Ira*" above. All is consistent. When you attempt to banish the substance of freedom---the shadow must follow! When a new coinage takes place, you have given a most excellent hint. The officers of the mint, will profit by the lesson, and they will no more scatter sedition through the land, by impressing upon our happiness, the figure of Britannia with a spear, mounted with the *Cap of Liberty* in her hand. But I am ashamed to enter into such trifles. If that letter had contained proofs of sedition or of treason against me, Mr. Palmer, or the writer of it---the seal and the spear---and the Cap of Liberty, would have been its feeblest protection.

Gentlemen, I now come to the last charge against me. That of having read in a Convention of Delegates, the Address from the Society of United Irishmen at Dublin.

I admit the fact, and I glory in the admission. The Prosecutor has represented that society, as a gang of mean and nefarious conspirators, and their diploma of my admission into their body is an aggravation of my crime. Let me tell the Lord Advocate of Scotland, that society stands too high for to be affected by his invective or to require the aid of my defence. I am a member of that society, and in the last moments of my life, to have been so, shall be my honour and my pride. The Lord Advocate has represented to you in general terms, that this address amounts almost to treason, but he durst not attempt to point out in his speech a single passage which could support the aspersions I maintain---that every line of that address is strictly constitutional. You must carry the whole of it along with you into your chamber, and not judge of passages scandalously mutilated in the indictment. The mutilation of the



very first paragraph of the address, is a proof of the fairness, and of the ingenuity of the Prosecutor. I beg leave to read how it stands in the indictment, and then to read what follows in the address itself.

“ We take the liberty of addressing you, in the spirit of  
 “ civil union, in the fellowship of a just and common cause.  
 “ We greatly rejoice that the spirit of freedom moves over  
 “ the face of Scotland ; that light seems to break from the  
 “ chaos of her internal government ; and that a country so  
 “ respectable for her attainments in science, in arts, and  
 “ in arms ; for men of literary eminence ; for the intelligence and morality of her people, now acts from a conviction of the union between virtue, letters, and liberty :  
 “ and, now rises to distinction, not by a calm, contented, secret wish for a Reform in Parliament, but by openly  
 “ actively, and urgently *willing* it, with the unity and energy of an embodied nation. We rejoice that you do  
 “ not consider yourselves as merged and melted down into  
 “ another country, but that in this great national question,  
 “ you are still---Scotland. [See Appendix.]

This is the first paragraph libelled on. But, taking it as it is in the indictment. Is it not permitted to the United Irishmen at Dublin, to congratulate this unfortunate people, upon account of their former eminence in literature, in arts, and in virtue ;---and to express the wish, that they would still retain that enviable distinction ? And, is that last and forlorn period now arrived, when those who express such a wish, must be called *nefarious* conspirators, and he who has been the organ of its communication must be branded with the epithets of, a wretch, of an oracle, of discord, of a fiend of sedition ! The children of your children in after ages, will not forget this ever to be remembered night. But here let us stop. I have said that this indictment, mutilated this passage as it does every other passage in this Address ; It breaks off the paragraph at the words, “ You are still Scotland.” It breaks off in the middle of a sentence ; and for what purpose---to countenance

an insinuation, that the United Irishmen in Dublin wished a dissolution of the Union betwixt Scotland and England. The Prosecutor cuts off the remainder of the sentence which demonstrated the sense, in which the the United Irishmen understood the words "still Scotland," expressing solely, their idea of her still being distinguished by her former lustre. The words which are cut off from the sentence are in the address as follows: "That you are still Scotland--- e  
"the land where Buchannan wrote, and Fletcher spoke, "and Wallace fought." Yes, I give my solemn assent, to this wish, and to this hope of the United Irishmen. My voice shall resound, Scotland shall still be the land, where Buchanan has written, where Fletcher spoke, and where Wallace fought. Let us attend to the mutilation of another passage, in this extraordinary indictment. I shall read it as it stands.

"We will lay open to you our hearts. Our cause is your cause---If there is to be a struggle between us, let it be "which Nation shall be foremost in the race of mind; let "his be the noble animosity kindled between us, who shall "first attain that free constitution from which both are equi- "distant, who shall first be the saviour of the empire."

"The sense of both countries with respect to the intoler- "able abuses of the constitution has been clearly manifest- "ed, and proves that our political situations are not dissim- ilar; that our rights and wrongs are the same."

The passage libelled stops at the passage rights and wrongs are the same. But it forbears to take in the remainder, in which the similarity of our rights and wrongs is specified. The self enacted magistrates of Burgh's---the unequal representation of the People in Parliament---and the total privations in Scotland, of the shadow of popular Elections.

Gentlemen, I will read over many passages of this Address, not merely because they are the production of an immortal pen, but because every word is regulated by the spirit of the constitution.

[Here Mr. Muir read the most of the Address; but we



forbear to insert the particular passages, as the whole is in the appendix.

Can you call this address seditious or inflammatory, which contains the following passage. "If Government  
"has sincere regard for the safety of the constitution, let  
"them coincide with the People in the speedy Reform  
"of its abuses, and not by an obstinate adherence to them,  
"drive that People into Republicanism."

Gentlemen, the Lord Advocate has represented the authors of this address, as the basest of mankind, and has expressly called them infamous wretches, who had fled from the punishment due to their crimes. What slander!--what false, unfounded slander!--Has Doctor Drennan? Has Mr. Hamilton Rowan, whose names are at the head of this address, fled from punishment? "And they are infamous wretches!" If ever after ages shall hear of my name, I wish it may be recorded, that to these men I had the happiness of being known. To be honoured by the notice of Doctor Drennan is an ambition to which, in the most exalted situation of life, I would fondly aspire. To have it said, that I was the friend of Mr. Hamilton Rowan, I would consider it as the passport to the only acquaintances whom I value, those who found their claim to distinction upon the only true basis, their own virtues. Mr. Rowan is indeed indicted to stand trial in Ireland, upon a charge similar to my own; but he has not fled. He will boldly meet his accusation and let me say, along with those who know him, that, although it is impossible to add any new lustre to his character, yet, as he has often come forward in the cause of individual humanity, he will display himself upon that occasion the firm, the intrepid, and I hope, the successful champion of the liberties of his native country.

Gentlemen, I hasten to a conclusion. Much yet remains to say. But after, upon my part, the unremitting exertions of sixteen hours, I feel myself nearly exhausted.

Look once more, I entreat you to the indictment, and compare it with the evidenc.

The first charge against me is, that in public speeches, I vilified the King and Constitution. All the witnesses adduced against me attest, that, both in public and in private, even in my most unguarded moments, my language was always respectful the King, and that I always recommended the Constitution.

The second charge against me, is, that of advising the people to read seditious books, and of distributing inflammatory publications among them: And you hear it proved by the unanimous voice of all the witnesses for the Crown, that I refused to recommend any books, and that the only one which I recommended, was Dr. Honry's History of England. You will not forget the circumstances in which I lent Freeland a copy of Mr. Paine's works, nor will you forget the manner in which the writings of that man were introduced as conversation with Wilson, Muir, and with Barclay. With regard to the other books and pamphlets mentioned in the libel, there is not any proof. William Muir has deponed, that I gave him one or two numbers of the Patriot, and some other pamphlets, whose titles I cannot remember. William Muir is but a single witness to this fact; and you know that, by the Laws of Scotland, the testimony of a single witness cannot claim any weight; but I frankly admit and acknowledge, that I gave him these numbers of the Patriot, and, if I were not now entirely overcome by fatigue, I could demonstrate to you, that, in these numbers, there is not a single sentiment unconstitutional or seditious.

I am accused of reading the Irish Address in the Convention, and of moving a solemn answer in return. That address is neither seditious, wicked, nor inflammatory. There is not a sentence of it, which I have not defended in your presence.

Gentlemen, you neither can do justice to me, nor to the country, if you condemn these different publications, upon



account of the scandalously mutilated extracts from them, in the libel. You must carry the whole of them along with you from this place. It is not upon detached passages you are to judge; but you must decide upon the whole.

*Gentlemen of the Jury,*

This is now perhaps the last time, that I shall address my country. I have explored the tenor of my past life: Nothing shall tear from me the record of my departed days. The enemies of Reform have scrutinized, in a manner hitherto unexampled in Scotland, every action I may have uttered: Of crimes, most foul and horrible, have I been accused.---Of attempting to rear the standard of civil war, and to plunge this land in blood, and to cover the land with desolation. At every step, as the evidence of the Crown advanced, my innocency has brightened up. So far from inflaming the minds of men to sedition and to outrage---all the witnesses have concurred, that my only anxiety was, to impress upon them the necessity of peace, of good order, and of good morals. What then has been my crime? Not the lending to a relation a copy of Mr Paine's Works; not the giving away to another a few numbers of an innocent and constitutional publication; but, for having dared to be, according to the measure of my feeble abilities, a strenuous and active advocate for an equal representation of the People---in the House of the People;---For having dared to attempt to accomplish a measure by legal means, which was to diminish the weight of their taxes, and to put an end to the profusion of their blood. From my infancy to this moment, I have devoted myself to the cause of the People. It is a good cause.---It shall ultimately prevail.---It shall finally triumph. Say then openly, in your verdict, if you do condemn me, which I presume you will not,---That it is for my attachment to this cause alone, and not for those vain and wretched pretexts stated in the indictment, and intended only to colour and disguise the real motions of my accusation. The time will come, when

men must stand or must fall by their actions ; when all human pageantry shall cease ; when the hearts of all shall be laid open. If you regard your most important interests, if you wish that your conscience should whisper to you words of consolation ; or speak to you in the terrible language of remorse.---Weigh well the verdict you are to pronounce. As for me, I am careless and indifferent to my fate. I can look danger---and I can look death in the face, for I am shielded by the consciousness of my own rectitude. I may be condemned to languish in the recesses of a dungeon---I may be doomed to ascend the scaffold---Nothing can deprive me of the recollection of the past---Nothing can destroy my inward peace of mind, arising from the remembrance, of having discharged my duty.

When Mr. Muir sat down, an unanimous burst of applause was expressed by the audience.

When the acclamations had ceased, he arose and said,

I have omitted to take notice of the evidence adduced upon my part,—I am not going to detain you a moment longer,—To you I leave the import of the whole of that evidence.



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 man's power shall cease; when the hearts of all shall be  
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 membrance of having done as my duty.  
 When Mr. Murrison, an unassuming burst of re-  
 pliance was expelled by the audience.

When the orator had ceased, he arose and said,  
 I have ordered to take notice of the evidence adduced  
 upon my part. I am not going to detain you a moment  
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 evidence.

